

**ABRIDGED SUMMARY OF CATEGORICAL USE OF FORCE INCIDENT AND
FINDINGS BY THE LOS ANGELES BOARD OF POLICE COMMISSIONERS**

OFFICER-INVOLVED SHOOTING – 018-09

<u>Division</u>	<u>Date</u>	<u>Duty-On()</u>	<u>Off(X)</u>	<u>Uniform-Yes()</u>	<u>No(X)</u>
Outside City	03/22/09				

<u>Officer(s) Involved in Use of Force</u>	<u>Length of Service</u>
Officer A	8 years, 1 month

Reason for Police Contact

Off-duty confrontation.

<u>Subject(s)</u>	<u>Deceased ()</u>	<u>Wounded ()</u>	<u>Non-Hit (X)</u>
Unidentified			

Board of Police Commissioners' Review

This is a brief summary designed only to enumerate salient points regarding this Categorical Use of Force incident and does not reflect the entirety of the extensive investigation by the Los Angeles Police Department (Department) or the deliberations by the Board of Police Commissioners (BOPC). In evaluating this matter, the BOPC considered the following: the complete Force Investigation Division investigation (including all of the transcribed statements of witnesses, pertinent suspect criminal history, and addenda items); the relevant Training Evaluation and Management System materials of the involved officers; the Use of Force Review Board recommendations; the report and recommendations of the BOPC of Police; and the report and recommendations of the Inspector General. The Los Angeles Police Department Command Staff presented the matter to the Commission and made itself available for any inquiries by the Commission. Because state law prohibits divulging the identity of police officers in public reports, for ease of reference, the masculine pronouns (he, his, and him) will be used in this report to refer to male or female employees.

The following incident was adjudicated by the BOPC on February 23, 2010.

Incident Summary

Officer A was off-duty and retuning from out of state to his residence in Los Angeles. Officer A had just exited the freeway when he heard the sound of screeching tires, looked in his rearview mirror, and observed the subject's vehicle traveling toward him with headlights on and at a high rate of speed. The subjects' vehicle struck the rear of Officer A's vehicle.

After hitting Officer A's vehicle, the subject's vehicle went around Officer A's vehicle and then proceeded to leave the scene of the accident. Officer A decided to follow the

subjects' vehicle to get its license plate to report the accident and told Witness 1, his passenger, to dial 911 so that he could provide the license plate number to the 911 operator.

Officer A continued to follow the subject's vehicle while beeping his horn and flashing his lights, apparently trying to get the driver to stop, according to Witness 2, who was following both involved vehicles in another vehicle. Officer A followed the subject's vehicle into a residential neighborhood and observed it make a U-turn and stop. Officer A also stopped his vehicle at this time.

According to Officer A, upon stopping, he exited his vehicle, opened his trunk, and attempted to obtain his flashlight from his backpack, located in the trunk of his vehicle, for approximately 10-15 seconds. However, Officer A heard a vehicle coming in his direction, was distracted, and retrieved his gun, a two-inch revolver, from a pocket holster located in a backpack instead of the flashlight.

Officer A was positioned behind his vehicle when he saw the subject's vehicle coming toward him. He believed the subject was going to try to run him over and he feared for the safety of the occupants in his vehicle. Officer A stepped into the road away from the rear of his vehicle.

Officer A fired one round at the subject's vehicle. Officer A then fired two additional rounds.

The subject's vehicle departed the scene. Officer A placed his revolver back in his backpack in the trunk of his vehicle and returned to the passenger compartment of his vehicle to check on its occupants.

As Officer A returned to the vehicle, Witness 1 was still on his cell phone with the 911 operator and made a number of statements, which were recorded. Officer A then took the phone from Witness 1 and, using profanity, stated that an individual had attempted to run him over. Officer A also told the 911 operator that he was an LAPD officer and the victim of a hit-and-run accident, but did not state that shots had been fired.

A local Sheriff's Department deputy subsequently arrived at the scene. Officer A told the deputy he was the victim of a hit-and-run collision and that he shot at the suspect because the suspect almost hit him with the vehicle. When the deputy asked Officer A if he hit the suspect's vehicle, Officer A replied that he did not because he was trying to shoot the tires.

A second deputy subsequently arrived at the scene and obtained a Public Safety Statement from Officer A, which included the number of shots fired, direction of the shots, and where his weapon was located.

A California Highway Patrol (CHP) Officer also arrived to investigate the hit and run traffic collision. Officer A next advised LAPD of the shooting incident and was instructed not to discuss the OIS with anyone until his lieutenant and captain arrived.

The hit-and-run suspects and their vehicle were not identified and remain outstanding. No evidence was recovered to indicate that anybody was injured by Officer A's gunfire.

Los Angeles Board of Police Commissioners' Findings

The BOPC reviews each Categorical Use of Force incident based upon the totality of the circumstances, namely all of the facts, evidence, statements and all other pertinent material relating to the particular incident. In every case, the BOPC makes specific findings in three areas: Tactics of the involved officer(s); Drawing/Exhibiting/Holstering of a weapon by any involved officer(s); and the Use of Force by any involved officer(s). All incidents are evaluated to identify areas where involved officers can benefit from a tactical debriefing to improve their response to future tactical situations. This is an effort to ensure that all officers benefit from the critical analysis that is applied to each incident as it is reviewed by various levels within the Department and by the BOPC. Based on the BOPC's review of the instant case, the BOPC unanimously made the following findings.

A. Tactics

The BOPC found Officer A's tactics to warrant Administrative Disapproval.

B. Drawing/Exhibiting/Holstering

The BOPC found Officer A's drawing and exhibiting to be out of policy.

C. Use of Force

The BOPC found Officer A's use of force to be out of policy.

Basis for Findings

A. Tactics

In its analysis of the incident, the BOPC noted the following tactical considerations:

1. The BOPC noted that, while off-duty and driving his personal vehicle, Officer A was the victim of a hit-and-run traffic collision and made the decision to follow the suspect's vehicle with two other occupants in his vehicle.

Officer A's decision unnecessarily jeopardized his safety, that of the occupants in his vehicle and that of the public. A more sensible decision would have been for Officer A to remain at the scene of the traffic collision, contact emergency services from the cellular telephone that he had in his possession and file the appropriate reports with the CHP.

2. The BOPC noted that once the suspect's vehicle stopped, Officer A exited his vehicle and walked to the rear of his vehicle to retrieve his flashlight from his

backpack in the trunk. According to Officer A, his intentions were to obtain the suspect's vehicle license number and a description of the suspect or to exchange information with the driver. Here, it would have been safer for Officer A to position his vehicle in a way which would have enabled him to utilize his vehicle's headlights to obtain the suspect's vehicle license plate number. This would have allowed Officer A to remain in his vehicle and provide the information to the waiting 911 operator instead of involving himself and the occupants of his vehicle in a tactical situation.

3. The BOPC noted that apparently Officer A's emotions played a critical role in his decision making process, resulting in actions that placed the occupants of his vehicle and the public's safety in jeopardy. The preponderance of the evidence demonstrates that the tactics and decisions employed during this incident unjustifiably and substantially deviated from approved Department tactical training relative to off-duty actions.

B. Drawing/Exhibiting/Holstering

The BOPC noted that Officer A believed the suspect's vehicle was possibly stalled and had become inoperable or they had stopped to exchange information. Officer A exited his vehicle and walked to the rear of his vehicle to retrieve his flashlight from his backpack in the trunk. According to Officer A, his intentions were to obtain the suspect's vehicle license number and a description of the suspects or to exchange information with the driver. While Officer A was in the process of searching for his flashlight, he heard the sound of spinning tires, looked up and observed the headlights from the suspect's vehicle heading toward him.

The BOPC was critical of Officer A's rationale for drawing his pistol based on his claim that he meant to retrieve his flashlight from his backpack, but inadvertently drew his pistol instead. Furthermore, at the moment when Officer A drew his service pistol, he failed to articulate a reasonable belief that the situation may escalate to the point where deadly force may become necessary and actually stepped into the roadway toward the moving vehicle

Therefore, the BOPC found Officer A's drawing and exhibiting to be out of policy.

C. Use of Force

The BOPC noted that Department policy prohibits shooting at moving vehicles "*unless a person in the vehicle is immediately threatening the officer or another person with deadly force by means other than the vehicle.*" The policy further states, "*the moving vehicle itself shall not presumptively constitute a threat that justifies an officer's use of deadly force. An officer threatened by an oncoming vehicle shall move out of its path instead of discharging a firearm at it or any of its occupants.*"

As the oncoming vehicle accelerated toward him, Officer A, pointed his pistol at the driver and fired one round. He then fired two more rounds toward the vehicle as it drove past him.

Although there is little doubt that Officer A was in fear of being struck by the vehicle, the BOPC was critical of his unreasonable decision to leave a position of cover behind his vehicle and step out into the roadway which unnecessarily placed him in harm's way.

In conclusion, the BOPC determined that Officer A's use of force was not objectively reasonable and was out of policy.

**ABRIDGED SUMMARY OF CATEGORICAL USE OF FORCE INCIDENT AND
FINDINGS BY THE LOS ANGELES BOARD OF POLICE COMMISSIONERS**

CATEGORICAL USE OF FORCE – 030-09

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
Van Nuys	04/06/2009		

Officer(s) Involved in Use of Force	Length of Service
Sergeant B	19 years, 3 months
Officer D	1 year, 7 months
Officer E	9 years, 9 months
Officer F	1 year, 10 months
Officer M	3 years, 8 months
Officer N	3 years, 8 months
Officer O	4 years, 9 months
Officer Q	5 years, 9 months
Officer S	4 years, 2 months
Officer U	11 years
Officer V	12 years, 11 months

Reason for Police Contact

Los Angeles City Fire Department (LAFD) personnel responded to a call from an unidentified person regarding a suicidal, 415 man who had cut his wrists with a knife. LAFD requested a police officer response, and a foot pursuit transpired, wherein multiple uses of force were used against the subject who did not respond to police commands.

Subject	Deceased ()	Wounded (X)	Non-Hit ()
Subject 1: Male, 21 years old.			

Board of Police Commissioners' Review

This is a brief summary designed only to enumerate salient points regarding this Categorical Use of Force incident and does not reflect the entirety of the extensive investigation by the Los Angeles Police Department (LAPD or Department) or the deliberations by the Board of Police Commissioners (BOPC). In evaluating this matter, the BOPC considered the following: the complete Force Investigation Division investigation (including all of the transcribed statements of witnesses, pertinent suspect criminal history, and addenda items); the relevant Training Evaluation and Management System materials of the involved officers; the Use of Force Review Board recommendations; the report and recommendations of the Chief of Police; and the report and recommendations of the Inspector General. The Los Angeles Police Department Command Staff presented the matter to the Commission and made itself available for any inquiries by the Commission.

The following incident was adjudicated by the BOPC on March 9, 2010.

Because state law prohibits divulging the identity of police officers in public reports, the masculine pronouns (he, his, and him) will be used in this report in situations where the referent could in actuality be either male or female.

Incident Summary

Subject 1 was in his residence when he became involved in an argument with his family. Subject 1, who was wearing only shorts, obtained a knife with a nine-inch blade from his residence and fled, intending to commit suicide.

Subject 1 hid behind parked vehicles and used the knife to cut both of his wrists. An unknown witness saw Subject 1 and telephoned the LAFD to report a man bleeding.

As the LAFD personnel neared the identified location, they observed a male standing in the middle of the street with only his shorts on. The LAFD personnel exited their vehicle, shined their flashlights on Subject 1, and yelled at Subject 1 to stop, which he did. At that point, LAFD personnel observed that Subject 1 appeared to be bleeding from his hands and was also carrying a large knife. LAFD personnel requested a police response.

LAPD Communications Division (CD) issued a broadcast for a back-up unit to respond to the location to attend to a 415 man with a knife, approximately 20 years old. Upon hearing the broadcast, Officers A and B notified CD that they would handle the call. Sergeant A, as well as Officers C and D, advised CD that they would also respond.

Officers E and F arrived at the location. Upon arriving, Officers E and F observed the LAFD personnel shining a flashlight in their direction. Officer E turned and observed a male (Subject 1) bleeding profusely from his arms and other body parts, wearing only shorts, walking toward the officers on the sidewalk, and holding a knife in his left hand.

Officers E and F immediately exited their vehicle and stood behind their respective doors for cover. Officer E unholstered his service pistol, while Officer F deployed a TASER.

Officers instructed Subject 1 to drop his knife. Subject 1 replied, "No. Just shoot me." Officer F advised Subject 1 that if he did not drop the knife, then he was going to be Tased. Officer F repeated his warning to Subject 1, but Subject 1 did not drop the knife. Officer F discharged one TASER cartridge toward Subject 1 from a distance of approximately 15 feet. Officer F believed the darts from the TASER cartridge struck Subject 1 in the upper torso area and appeared to have no effect on Subject 1. Subject 1 then used his knife to cut the TASER wires. Officer F reloaded the TASER with another cartridge and again warned Subject 1 to drop the knife, or he would Tase him again. Subject 1 repeated, "Shoot me. Shoot me." Officer F discharged another TASER cartridge toward Subject 1, which struck Subject 1 in the upper torso. Subject

1's body tensed, and he fell to the ground, still holding the knife. Officer E directed Officer F to initiate a second five-second cycle of the TASER. While on the ground, Subject 1 used the knife to cut the wires and stood up.

Officer E broadcast a "help" request. In response to the help call, Officers G, H, I, and J arrived at the location.

Subject 1 began walking backwards away from officers, turned around, and then ran. Officer E broadcast the officers' location and that they were following a male, wearing no shirt and blue shorts. Officers initiated a foot pursuit. Officer E continued broadcasting their updated location as they pursued Subject 1. As officers pursued Subject 1, Officer E estimated that Subject 1 was approximately 75 yards in front of officers, increasing the distance as the pursuit continued.

Meanwhile, Officers A and B responded to the location when they were flagged down by Officer E. Officer E advised Officers A and B that Subject 1 ran past them. Officer A then observed Subject 1 cross from a sidewalk into the street. Officers A, B, G, and H exited their vehicles and joined the foot pursuit.

As officers pursued Subject 1, Sergeant A and Officers C and D notified CD that they were in the area. Sergeant A parked, and Officers C and D, who were following behind Sergeant A's vehicle, continued and, using their vehicle's spotlight, located Subject 1 as he ran toward them. Officer C, the driver, immediately stopped the vehicle, and Officers C and D exited, unholstered their service pistols, and took positions of cover behind their vehicle. Officer C instructed Subject 1 to "Stop," while Officer D ordered Subject 1 to drop his knife. Subject 1 continued running.

Meanwhile, Officers K and L responded, stopped, exited their vehicle, and joined the foot pursuit. Sergeant B and Officers M and N responded to the area. Sergeant B was driving with his overhead emergency lights activated. Sergeant B observed Subject 1 run through lanes of traffic. Additionally, Sergeant B observed that Subject 1 was armed with a "hunting-style" knife. Sergeant B slowed his vehicle and attempted to locate officers who were pursuing Subject 1.

At that time, Sergeant A and Officers C and D followed Subject 1 into an intersection. Meanwhile, Subject 1 slowed his pace to a walk and stopped between lanes of traffic. Officers also slowed to a walk and stopped near the center divider on the street. As Subject 1 and officers slowed their pace, Sergeant B heard Sergeant A broadcast a request for a TASER and decided to place his vehicle between Subject 1 and officers so that officers could use his vehicle as cover. Sergeant B intended to communicate his plan to Sergeant A or Officers C and D but did not because as he began to roll down his driver's side window to communicate his intent, Subject 1 turned toward the officers, holding the knife in his right hand with the blade facing down, and maintaining a fighting stance.

Meanwhile, Sergeant A and Officers C, D, G, and H were stopped near the center divider, approximately 30-40 feet from Subject 1. Officer D, believing that Subject 1 was going to move toward him and that the situation could escalate to the point where deadly force was used, drew his service pistol. Officer C, believing that Subject 1 made a movement toward his direction and was holding the knife in a threatening manner, drew his service pistol. Officers G and H also drew their service pistols. Multiple officers gave Subject 1 commands to drop his knife.

At this time, Sergeant B was close to the group of officers and slowed his speed. Subject 1 spun toward the officers, looked at them, and stomped his foot. Subject 1's whole body leaned forward as he lunged toward the officers. He jerked forward, looking like he was about to start running. Sergeant B formed the opinion that Subject 1 was going to charge the officers.

NOTE: Subject 1 stated he did not take a step toward the officers.

Sergeant A, believing that Subject 1 took a step toward him and that he was facing a deadly force situation, brought his service pistol from a low-ready position up on target and moved his finger to the trigger. Sergeant B observed the officers bring their pistols up from a low-ready position, as though they were trying to decide whether to shoot. At that point, fearing that an officer-involved shooting was about to occur, Sergeant B determined that he needed to use his vehicle to stop Subject 1.

Sergeant B accelerated his vehicle to 20-25 mph. Sergeant B then steered his vehicle toward Subject 1. Sergeant B felt as though he had sufficient lag time to utilize the vehicle to stop Subject 1's actions.

As Sergeant B accelerated his vehicle, Subject 1 turned to his left, faced Sergeant B's oncoming police vehicle and crouched down, still holding the knife. As he was about to be struck by Sergeant B's vehicle, Subject 1 jumped. Subject 1's feet made contact with the top of the police vehicle's license plate frame, while his thighs and hip area made contact with the vehicle's grille, causing Subject 1 to roll onto the hood. Subject 1's upper torso and both arms then struck the front windshield. Subject 1 impacted the windshield, causing it to break. As the impact occurred, Sergeant B could see the knife in Subject 1's right hand, pinched between his arm, body, and the front windshield. As soon as Subject 1 struck the front windshield, Sergeant B applied the brakes strongly, which caused the vehicle's front end to dip, and caused Subject 1 to slide off the hood and land approximately ten feet away from the vehicle. Subject 1 immediately stood up, flipped the knife around in his hand, and waved the knife at Sergeant B's vehicle. Subject 1 then turned and ran toward the sidewalk. Sergeant B, unable to see out of the front windshield of his vehicle, exited and joined the foot pursuit.

Sergeant C responded and observed numerous officers engaged in a foot pursuit. Sergeant C decided to follow the pursuit in his vehicle and use his vehicle's Public Address (PA) system to issue commands for Subject 1 to drop the knife. Meanwhile, Officers M and N, who were following Sergeant B, stopped their vehicle behind

Sergeant B's vehicle and exited. Officer N heard the TASER request over the radio and immediately upon exiting his vehicle deployed his TASER. Officer N observed Subject 1 still holding the knife and moved in his direction. Subject 1 did not drop the knife when ordered to do so by Officer N, and Officer N discharged a TASER cartridge toward Subject 1, which struck Subject 1 in the chest. Subject 1 used his knife to cut the TASER wires. Subject 1 then turned and ran down the street, moving from the sidewalk to the street and back to the sidewalk. Officers continued to pursue Subject 1 on foot.

Meanwhile, Officers O and P responded to the location. As Officers O and P were exiting their vehicle, Officer O observed Subject 1 run past the trunk of their vehicle, covered in blood and carrying a knife. Meanwhile, having heard requests for a TASER and beanbag shotgun over the radio, Officer O walked to the trunk of his vehicle, removed a beanbag shotgun, and chambered one round. After chambering the round, Officer O joined the foot pursuit. Although he did not communicate to other officers that he had deployed the beanbag shotgun, Officer O heard Sergeant B saying that a beanbag was deployed. As officers involved in the pursuit realized that Officer O was armed with a beanbag shotgun, they slowed down and allowed Officer O to assume an appropriate position.

Subject 1 then stopped running, turned around, and held the knife at face level with the blade pointing up, thereby not responding to officers' orders. Officer O, believing that a proper warning had been issued, fired one Super-Sock round at Subject 1's abdominal area from a distance of approximately 30 feet. The Super-Sock round struck Subject 1 in the right shoulder area but appeared to have no effect. Subject 1 began to run down the street. Officer O chambered a second round, maintained the beanbag shotgun in a low-ready position with the safety off, and ran after Subject 1.

Subject 1 began hopping back and forth, looking around, and holding the knife up. Officers issued more commands for Subject 1 to drop the knife. Subject 1 turned around again, and Officer O fired a second Super-Sock round at Subject 1's stomach from a distance of approximately 30 feet. The second round also appeared to have no effect, and Officer O was unaware if the second Super-Sock round struck Subject 1.

As Subject 1 continued running down the street, Officer O chambered another round, maintained the shotgun in a low-ready position, took his finger off the trigger, and again followed Subject 1. Subject 1 ran to the side of the street. Officer O fired a third Super-Sock round at Subject 1's lower stomach, missing Subject 1. Subject 1 then began running toward the middle part of the street. Officers continued giving Subject 1 orders to "Drop the knife." Officer O fired a fourth Super-Sock round at Subject 1's stomach area but was unable to tell if that round struck Subject 1. After Officer O fired the fourth Super-Sock round, the beanbag shotgun was empty. Officer O loaded two more rounds into the shotgun.

Subject 1 began running down the street, toward citizens and other cars. Believing that Subject 1 could kidnap, stab, or take somebody hostage, Officer O fired a fifth Super-

Sock round at Subject 1's lower back from a distance of approximately 30 feet. Officer O was unaware if the fifth Super-Sock round struck Subject 1. After firing the fifth round at Subject 1, Officer O ran and fired a sixth Super-Sock round at Subject 1. Officer O was unaware if the sixth Super-Sock round struck Subject 1. Officer O ejected the last empty casing, engaged the safety, and slung the shotgun over his shoulder and continued to run after Subject 1.

Meanwhile, Officers Q and R parked their vehicle and exited. As they exited, Officer Q deployed a TASER, while Officer R unholstered his service pistol. Officer Q decided to use his TASER while Subject 1 was distracted by other officers who were giving him commands at the time. Officer Q decided not to issue a warning to Subject 1 that he was going to use the TASER to maintain the element of surprise. As Subject 1 walked backwards, Officer Q discharged a TASER cartridge at Subject 1 from a distance of 15-20 feet. Officer Q believed that only one TASER dart made contact with Subject 1. Officer Q discarded the TASER cartridge and secured the TASER in his left rear pants pocket. Officer Q unholstered his service pistol and moved across the street to prevent Subject 1 from fleeing. Subject 1 then continued down the street.

Meanwhile, in response to the previous radio broadcasts, Officers S and T responded to the area. Officers S and T observed Subject 1 running, followed by officers. Officers S and T exited their vehicle. As he exited, Officer S deployed a TASER and ran after Subject 1. Subject 1 slowed his pace to a walk and then turned and faced Officer S. Officer S heard officers screaming, "Tase him. Tase him." As Subject 1 turned to face Officer S, Officer S observed Subject 1 holding a knife between his waist and chest area out away from his body with the blade facing up. Officer S fired a TASER cartridge toward Subject 1 from a distance of approximately 15-20 feet. Subject 1's body locked up and he dropped the knife as he fell to the ground.

After Officer S's TASER completed its five-second cycle, Subject 1 reached out with his right hand to grab the knife, and Officer S initiated another five-second cycle. Sergeant A approached and, due to the large amount of blood on Subject 1, ordered officers to put on rubber gloves before taking Subject 1 into custody. Officer K jumped over Subject 1 while he was still on the ground and kicked the knife away from him. Officers began to roll Subject 1 onto his stomach, and Subject 1 began to struggle against them. Officer N, who was still in possession of his TASER, applied a dart directly to Subject 1's abdomen. Subject 1 was taken into custody without further incident.

Meanwhile, Sergeant D responded as officers were taking Subject 1 into custody. After arriving, Sergeant D was approached by Sergeant B, who said he had no choice but to hit Subject 1.

Meanwhile, Lieutenant A responded and directed Sergeant D to take a Public Safety Statement (PSS) from Sergeant B, who admitted being involved in a categorical use of force. Sergeant D then asked Sergeant B how many times he struck Subject 1, to which Sergeant B responded, "One time with the vehicle." Sergeant D asked if Subject 1 was injured, and Sergeant B responded that he thought so but that Subject 1 kept

running after being struck by the vehicle. Sergeant B also informed Sergeant D that Subject 1 had a knife and was coming toward the officers, which was why he struck him with the police vehicle.

Lieutenant A assumed the role of Incident Commander and directed Sergeant A to establish a Command Post (CP) and Sergeant E, who was at the local police station, to notify Real-Time Analysis and Critical Response (RACR) Division and Force Investigation Division (FID). Lieutenant A then directed on-scene supervisors to secure the scene and to separate and monitor officers, while Sergeant B was separated and transported back to the station to be monitored.

Lieutenant A told FID personnel that the vehicle strike was “inadvertent” and done in an attempt to corral Subject 1. Subject 1’s doctor advised that Subject 1 would be admitted to the hospital for injuries that were self-inflicted and not due to his having been struck with the vehicle. Accordingly, FID determined the incident would be classified as a Non-Categorical Use of Force (NCUOF).

The incident was initially treated by the Area as a CUOF, which involved the separation and monitoring of involved officers. However, when it was determined that the incident was a NCUOF, officers were no longer separated or monitored, and the investigation proceeded as a NCUOF investigation.

The incident was subsequently reclassified as a CUOF and an investigation was initiated by FID.

Los Angeles Board of Police Commissioners’ Findings

The BOPC reviews each Categorical Use of Force incident based upon the totality of the circumstances, namely all of the facts, evidence, statements, and all other pertinent material relating to the particular incident. In every case, the BOPC makes specific findings in three areas: Tactics of the involved officer(s); Drawing/Exhibiting/Holstering of a weapon by any involved officer(s); and the Use of Force by any involved officer(s). All incidents are evaluated to identify areas where involved officers can benefit from a tactical debriefing to improve their response to future tactical situations. This is an effort to ensure that all officers benefit from the critical analysis that is applied to each incident as it is reviewed by various levels within the Department and by the BOPC. Based on the BOPC’s review of the instant case, the BOPC unanimously made the following findings.

A. Tactics

- The BOPC found Sergeant B’s tactics to warrant Administrative Disapproval.

The BOPC found Sergeant A’s and Officers C, D, E, F, K, L, M, N, O, Q, S, T, U, and V’s tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

- The BOPC found Sergeant A's and Officers C, D, E, K, L, Q, and T's drawing/exhibiting to be in policy.

C. Non-Lethal Use of Force

- The BOPC found Officers D, E, L, M, N, T, U, and V's non-lethal use of force to be in policy.

D. Less-lethal Use of Force

- The BOPC found Officers F, N, O, Q, and S's less-lethal use of force to be in policy.

E. Lethal Use of Force

- The BOPC found Sergeant B's lethal use of force to warrant Administrative Disapproval.

Basis for Findings

A. Tactics

- In adjudicating this incident, the BOPC considered that:
 1. Officer F deployed two TASER cartridges, and the probes appeared to make contact with Subject 1's skin. In both instances, Subject 1 utilized his knife to cut the TASER wires to interrupt the electrical current and ran. Officer E advised CD that they were in foot pursuit. Subject 1 proceeded to run; however, as Officer E did not observe a posted street sign, he did not update their direction of travel nor did he articulate that the TASER was utilized with negative results. The omission of this information created a circumstance wherein responding personnel were not fully aware of the evolving tactical situation.
 2. As Subject 1 was armed with a knife, Sergeant A along with Officers C and D maintained their positions with their service pistols drawn. Sergeant B continued driving toward the officers and stated his reason for doing so was so that he could allow the officers to use his vehicle as cover. Sergeant B failed to communicate his intentions to the officers in the roadway. When Sergeant B's vehicle was approximately 10 feet west of the officers, he observed Subject 1 "lunge" at the officers while armed with a large knife. According to Sergeant B, in fear for the lives of his fellow officers and believing that his best option was to utilize his vehicle as a weapon, Sergeant B intentionally ran into Subject 1 with his vehicle.

According to Sergeant A and Officer C, just prior to Subject 1 being struck by Sergeant B's vehicle, they were preparing to utilize lethal force. Thus, it was

unreasonable for Sergeant B to believe that based on his six years of training and experience as a firearms instructor, he could determine that the officers were going to hesitate in actually using lethal force. By using his vehicle in this manner, Sergeant B unnecessarily exposed himself to potential gunfire from other officers.

Sergeant B should have communicated his intended actions to officers and should have avoided driving into the potential line of fire of fellow officers. In addition, Sergeant B should not anticipate whether the officers will perceive the same threat and fire their service weapons.

3. As Subject 1 continued to flee while armed with the knife, Sergeant A joined in the foot pursuit and attempted to manage the situation by requesting additional personnel and less-lethal force tools. Sergeant A further defined his role at the scene by advising Sergeant B that he was assuming the role as the Incident Commander.

This incident unfolded rapidly, and there was a considerable amount of pedestrian and vehicular traffic to contend with; however, with the amount of personnel at scene, there was concern over the level of command and control demonstrated by Sergeant A. It was understandable that Sergeant A had to keep up with the foot pursuit in order to maintain a visual to appropriately manage it; however, as a supervisor, Sergeant A should have been able to maintain a global perspective of the entire incident.

4. Although Department policy states that *"Officers should not shoot the Beanbag Projectile Shotgun at a fleeing subject,"* Subject 1 was armed with a knife, therefore making it unsafe for the officers to approach within contact range. Additionally, Subject 1 had demonstrated that he posed a threat to himself by cutting his own wrists and potentially posed a threat to the community based on this incident occurring at night on a major thoroughfare where there was a significant amount of pedestrian and vehicular traffic traversing the area.

Given the totality of the above mentioned circumstances, the firing of the Beanbag Projectile Shotgun at the fleeing subject was reasonable.

5. After firing super-sock rounds one through five, Officer O assessed the situation, observed Subject 1 running, and continued to follow him without placing the Beanbag Projectile Shotgun's safety on. The beanbag projectile shotgun should be handled in the same manner as other lethal shotguns and the same safety measures should be adhered to when manipulating this weapon. Running with a Beanbag Projectile Shotgun with the safety off increases the risk of an unintentional discharge.
6. There were several instances where a number of the involved personnel were engaged in the foot pursuit with their service pistols drawn. As Subject 1 fell to the ground and the knife landed in close proximity to his right hand, Officer K jumped

over Subject 1's legs and kicked the knife away while maintaining his service pistol in his right hand. Although it is reasonable for Officer K to want to move the knife out of Subject 1's reach, moving over a subject with his weapon drawn increased the risk of Subject 1 attempting to grab the weapon and the potential for an unintentional discharge.

Although many of the involved personnel holstered their service pistols as the foot pursuit progressed, there are inherent dangers associated with running with their service pistols drawn.

7. Officer D assisted with taking Subject 1 into custody by placing his right foot on Subject 1's left foot. Officer D observed Subject 1 attempting to kick Officer N and did not believe he had time to put on his rubber gloves prior to attempting to restrain Subject 1.

In conclusion, it was reasonable that Officer D, concerned with the transfer of bloodborne pathogens, utilized his foot to control Subject 1. However, the officers are to be reminded that stepping on subjects is discouraged as it places officers off balance and may be negatively perceived by the public.

8. From the initiation of the foot pursuit to the time Subject 1 was taken into custody, Subject 1's movements were erratic and unpredictable. Aware that Subject 1 was armed, the officers had to balance the need to maintain a reasonable distance with the need to monitor Subject 1's actions. In doing so, no single officer remained in an optimal position to issue verbal commands to Subject 1. Because of this, a circumstance was created wherein several officers simultaneously issued verbal commands. Although multiple officers are generally discouraged from giving commands as it may create confusion in the mind of the subject, in this situation it was unavoidable.

Although justified in this instance, the topic of issuing simultaneous commands to subjects and when it is and is not appropriate will be addressed during the Tactical Debrief.

Sergeant B was responsible for the tactical decisions that warranted the most concern. The BOPC was concerned that Sergeant B devised and executed a tactical plan without communicating his intentions to his fellow officers. This action was further compounded when Sergeant B intervened on the officers' behalf, resulting in actions that placed his safety in jeopardy. Sergeant B's actions were not consistent with the tactical concepts and created a circumstance wherein the sergeant was exposed to a heightened risk of harm not justified by the tactical scenario.

Therefore, the BOPC determined that Sergeant B's tactical decisions and actions *"unjustifiably and substantially deviated from approved Department tactical training."* The BOPC found his tactics required a finding of Administrative Disapproval.

Regarding the tactics of the additional personnel who responded to the scene although there were identified areas for improvement, the tactical considerations neither individually nor collectively *“unjustifiably and substantially deviated from approved Department tactical training.”*

Therefore, the BOPC determined that a Tactical Debrief was the appropriate mechanism for Sergeant A, along with Officers C, D, E, F, K, L, M, N, O, Q, S, T, U, and V to evaluate the events and actions that took place during this incident and assess the identified tactical considerations to better handle a similar incident in the future.

B. Drawing/Exhibiting

Sergeant A, along with Officers C, D, E, K, L, Q, and T, responded to the location and were aware of the fact that they may encounter a male armed with a knife. When the officers were confronted by an individual covered in blood and armed with a knife, they drew their service pistols with the belief that the incident could rise to a lethal force situation.

In conclusion, the BOPC found Sergeant A and Officers C, D, E, K, L, Q, and T's Drawing/Exhibiting to be reasonable and within Department guidelines and, accordingly, to be in policy.

C. Non-Lethal Use of Force

In this instance, Officers D, E, L, M, N, T, U, and V were confronted with an aggressive and combative subject who resisted the officers' attempts to handcuff him. The officers moved Subject 1 into a prone position, during which time Subject 1 placed his left hand underneath his body. The application of a direct stun TASER application enabled Officers E and V to remove Subject 1's left arm from underneath his body and force it behind his back where Officer T assisted them by applying a firm grip to Subject 1's left wrist. Simultaneously, Officers D, L, M, and U took control of Subject 1's right arm and forced it to a position where Subject 1 was handcuffed. As the officers were attempting to handcuff Subject 1, Officer N placed both hands on Subject 1's legs, while Officer D utilized his left foot to hold down Subject 1's left foot.

The BOPC evaluated the circumstances relevant to Officers D, E, L, M, N, T, U, and V's Non-Lethal Use of Force and determined that the force was objectively reasonable to overcome the suspect's aggressive actions.

The BOPC found Officers D, E, L, M, N, T, U, and V's non-lethal use of force to be in policy.

D. Less-Lethal Use Of Force

Officer F was faced with a subject armed with a knife and covered in blood. When Officer F ordered Subject 1 to drop the knife, he ignored the officer's commands and demanded to be shot. The TASER probes made contact with Subject 1's upper torso area; however, Subject 1 appeared unaffected as he utilized his knife to cut the TASER wires. Officer F deployed a second TASER cartridge.

Officer N observed Sergeant B strike Subject 1 with his police vehicle. After being struck, Subject 1 ran onto the curb. Officer N tased Subject 1 after giving him a direct order to drop his knife. At the termination of the foot pursuit, as the officers struggled to handcuff Subject 1, Sergeant A directed a direct stun with the TASER. In response, Officer N applied a direct stun to Subject 1's abdominal area in order to stop Subject 1's actions.

Officer Q also tased Subject 1 when he held his knife up above his head and was not complying at all with officers' orders. Officer Q believed it was unsafe to approach based on the fact that Subject 1 was armed with a knife and that the conventional tactics would be ineffective.

At the termination of the foot pursuit, Subject 1 slowed his gait to a walk and turned toward Officer S. Officer S fired one TASER round at Subject 1, as he was holding the knife between waist and chest level, away from his body.

In this instance, the armed subject was fleeing from the officers and actively attempting to prevent them from establishing physical control, thus aggressively resisting arrest prior to each less-lethal application of force. The subject's behavior and possession of an edged weapon created a circumstance wherein conventional tactics would have been ineffective because it was unsafe to approach within contact range of the subject.

The BOPC found Officers F, N, Q, and S's less-lethal force to be in policy.

When the officers noted that Officer O had deployed the Beanbag Projectile Shotgun, they slowed their pace and allowed him to take a point position. As the foot pursuit progressed, Subject 1 abruptly stopped and began to walk in a circular pattern. The officers ordered Subject 1 to drop the knife; and when he failed to comply with the officers' commands, Officer O fired one super-sock round at Subject 1, striking him on the right shoulder. Subject 1 appeared unaffected as he ran, while still holding the knife. Officer O trailed behind Subject 1, maintaining a distance of approximately 30 feet. When Subject 1 turned and exposed his front torso to Officer O, he fired a second super-sock round at Subject 1. Once again, Subject 1 appeared unaffected and ran. Officer O fired super-sock rounds three and four when presented with the same circumstances, assessing after firing each super-sock round.

After firing his fourth super-sock round, Officer O removed the two remaining super-sock rounds from his ammunition holder and loaded them into his weapon. As Subject 1 continued to run while still in control of the knife, Officer O fired his last two super-sock rounds at Subject 1, assessing between rounds. It was noted that Officer O fired the fifth and sixth super-sock rounds at Subject 1's back as he fled. Although the back is not a preferred target for the Beanbag Projectile Shotgun, it was reasonable for Officer O to target the back in an attempt to prevent Subject 1 from gaining access to nearby citizens. The BOPC determined that Officer O's decision to utilize the beanbag shotgun in this situation was reasonable and that the subject's actions in the incident provided sufficient justification for Officer O to fire the six super-sock rounds at the subject.

The BOPC found Officer O's less-lethal use of force to be in policy.

E. Lethal Use Of Force

Sergeant B drove his police vehicle and intentionally collided with Subject 1. Although there is little doubt that Sergeant B feared for the safety of his fellow officers, the BOPC was critical of his decision to utilize lethal force in this situation. The actions of Subject 1 had not yet risen to the level where he posed an *immediate threat of serious bodily injury or death* as the officers were still approximately 40 feet away from him and he was not actively charging toward them.

The BOPC determined that Sergeant B's perception that Subject 1 presented an *immediate threat of death or serious bodily injury* was not reasonable under these circumstances and his action of utilizing his police vehicle to intentionally strike Subject 1 was also unreasonable.

The BOPC found Sergeant B's use of lethal force to be out of policy, warranting Administrative Disapproval.

**ABRIDGED SUMMARY OF CATEGORICAL USE OF FORCE INCIDENT AND
FINDINGS BY THE LOS ANGELES BOARD OF POLICE COMMISSIONERS**

OFFICER INVOLVED SHOOTING – 050-09

<u>Division</u>	<u>Date</u>	<u>Duty-On(X) Off()</u>	<u>Uniform-Yes() No(X)</u>
Newton	08/06/09		

<u>Involved Officer(s)</u>	<u>Length of Service</u>
Detective A	19 years, 5 months
Detective B	20 years, 8 months

Reason for Police Contact

During a surveillance operation, several subjects committed a robbery. Detectives stopped the subjects involved in the robbery and an officer-involved shooting occurred.

<u>Subject(s)</u>	<u>Deceased (X)</u>	<u>Wounded (X)</u>	<u>Non-Hit ()</u>
Subject 1, Female, 19 years of age (wounded)			
Subject 2, Male, 22 years of age (deceased)			
Subject 3, Male, 18 years of age (wounded)			
Subject 4, Male, 18 years of age (wounded)			

Board of Police Commissioners' Review

This is a brief summary designed only to enumerate salient points regarding this Categorical Use of Force incident and does not reflect the entirety of the extensive investigation by the Los Angeles Police Department (Department) or the deliberations by the Board of Police Commissioners (BOPC). In evaluating this matter, the BOPC considered the following: the complete Force Investigation Division investigation (including all of the transcribed statements of witnesses, pertinent suspect criminal history, and addenda items); the relevant Training Evaluation and Management System materials of the involved officers; the Use of Force Review Board (UOFRB) recommendations; the report and recommendations of the Chief of Police; and the report and recommendations of the Inspector General. The Department Command Staff presented the matter to the BOPC and made itself available for any inquiries by the BOPC.

Because state law prohibits divulging the identity of police officers in public reports, for ease of reference, the masculine pronouns (he, his, and him) will be used in this report to refer to either male or female employees.

The following incident was adjudicated by the BOPC on July 27, 2010.

Incident Summary

Lieutenant A supervised a robbery surveillance operation, which consisted of Detectives A, B, C, D, E, F, G, H, J, K, L, M, N, O, P, and Q, and Police Officers A and B, and Air Support Division. All involved detectives were in plain clothes, driving plain vehicles.

During the surveillance, Subject 1 picked up Subjects 2, 3, and 4 in a vehicle. The subjects subsequently parked their vehicle, and Subject 3 entered a retail store. While inside, Subject 3 committed a robbery using a handgun. Detective C observed Subject 3 exit the retail store and enter Subject 1's vehicle, which then drove away. Detective C broadcast his observations via his radio.

Detective C entered the retail store and confirmed with Witness A and Witness B that a male subject had taken money from both witnesses, and that the subject had displayed a gun. Detective C broadcast this information over the radio. The subjects drove away from the retail store with the detectives following. Detective E directed units to conduct a vehicle stop when sufficient personnel were available and when air units were in place.

When the subject vehicle pulled over to the curb and parked, Detective F advised the units to conduct the stop. The detectives then surrounded the subject vehicle with their own vehicles, blocking any path of escape.

Detectives A and B exited their vehicle, took cover behind their respective doors and deployed their shotguns. Detective G exited his driver's side door, drew his pistol and twice yelled, "Police. Get your hands up." Detective H exited the passenger side door, pointed his shotgun at Subject 1 and Subject 3 and yelled, "Police officers. Stop, police officers." Detective A observed Subject 4, who was the right rear passenger, turn to his left with a revolver in his right hand. As the barrel of Subject 4's gun was pointed in the direction where Detectives F, G and H were positioned, Detective A fired six consecutive rounds from his shotgun at Subject 4. According to Detective A, after he fired his first two rounds at Subject 4, the rear window shattered and he observed Subject 4 go down in his seat with his pistol still pointed toward the detectives to his left. Detective A fired three to four slug shotgun rounds through the vehicle where he believed Subject 4 would be positioned.

According to Detective A, Subject 4's pistol was visible the entire time he fired his shotgun. After firing all six rounds from his shotgun from a distance of approximately 11 feet, Detective A placed his shotgun on the front seat of his vehicle and transitioned to his pistol.

According to Detective B, he observed either the front passenger or the right rear passenger door open partially and he yelled, "Police. Stay in the car." At the same time, Detective B heard Detective A yell, "Gun." Detective B shifted his attention back to the passenger compartment and observed Subject 4 turning to his left and lowering himself. Detective B observed Subject 4 holding a pistol, which he pointed toward the side of the car and was moving toward Detective A. Detective B heard gunshots,

observed the rear window of the subject vehicle shatter and believed that Subject 4 was shooting at Detective A. In response, Detective B fired what he believed to be four to five rounds from his shotgun at Subject 4 from a distance of approximately 12 feet. According to Detective B, he fired one of his rounds through the trunk of the subjects' vehicle, to where he believed Subject 4 would be positioned. Detective B stopped firing when Subject 4 went out of his view and he no longer saw a visible threat.

According to Subject 3, meanwhile, Subject 2 said somebody was following them. Subject 2 had a black revolver, which he handed to Subject 3. Subject 3 thought about exiting the vehicle and running, but changed his mind and told Subject 2 that he was on probation and would not go down for the gun. Subject 3 threw the gun on Subject 2's lap. Subject 3 initially stated that Subject 2 then placed the gun underneath his seat. Subject 3 later stated that he observed Subject 2 place the gun in the glove compartment, and that he had just slapped it shut when the officers' vehicle bumped into theirs. Officers ordered them to "freeze" and approximately three and a half seconds later started shooting. Subject 3 believed the officers fired approximately 30 to 35 rounds.

Witness C was sitting on her front porch when she observed vehicles pull up and heard several officers yelling, "Freeze. Put your hands up." She then heard an officer state, "Drop the weapon," and then heard five to six gunshots. Witness C stated that she did not see anyone in the subjects' vehicle holding a weapon.

Detective H was monitoring Subject 1 and attempting to monitor Subject 3 and could not clearly see into the back of the subjects' vehicle due to glare reflecting from the window. Detective H observed "some sort of movement" in the vehicle, but "could not see exactly what the movement was." Detective H then heard five to six gunshots and from his peripheral vision observed Detectives A and B firing their shotguns through the rear window of the subject vehicle.

Detective G issued verbal commands and observed "a lot of movement going on in the car." Detective G observed Subject 4 and Subject 1 moving toward the center of the vehicle. Detective G heard five to six gunshots coming from his right side where Detectives A, B and H were positioned, but could not determine who was shooting. Detective G observed the rear window of the subject vehicle shatter. Detective G stated that he did not fire his pistol because his attention was drawn to Subject 1, who was not armed with a weapon and did not pose a threat.

Officers A and B were trailing when detectives conducted the stop. Officer A heard five to six gunshots.

Detective H observed Subject 1's hands on the driver side window of her vehicle and ordered her to come out with her hands up. Subject 1 complied and was directed to walk backward toward Detective H's vehicle. Detective E parked his vehicle behind Detectives A and G's vehicles and was exiting when he heard six to ten gunshots. Detective E took a position of cover until the gunshots ceased. Detective E then moved up and observed Subject 1 being directed by Detective H to walk back toward his

vehicle. Detective E directed Detective K to take Subject 1 into custody and escort her away from the scene. Subject 1 stated her right hand and shoulder were struck by gunfire. Detective F requested multiple ambulances to respond for the wounded subjects.

Detective H then ordered Subject 3 to exit the left rear passenger door of the vehicle and directed him to assume a prone position on the ground. Detective H ordered Subject 2 to exit the vehicle, but Subject 4 yelled that Subject 2 had been shot and could not come out. Detective H ordered Subject 4 to exit the vehicle through the left rear passenger door and directed him to prone out on the ground. Detective H ordered Subject 2 out of the vehicle, again with negative results.

Meanwhile, Detectives L and M had parked their vehicle behind Detective G and H's vehicle. Detective M handcuffed Subject 4, escorted him away from the scene and searched him with negative results. Detective M monitored Subject 4 while waiting for an ambulance. Detective L handcuffed Subject 3 and escorted him away from the scene. Detective L searched Subject 3 and recovered currency from Subject 3's pocket. Detective L advised Detective E of the currency and placed it in a money envelope, which he then secured inside his vehicle. Detective L asked Subject 3 if he was injured. Subject 3 advised that he had been shot in the back and on the face. Detective L observed that Subject 3's lower lip was bleeding and that he had a gunshot wound to his left lower back.

Detective E assembled an extraction team consisting of Detectives A, B and D. Detective B advised Detectives A and D that he would pull Subject 2 out and handcuff him on the sidewalk. Detective B grabbed Subject 2's wrists, pulled him out of the vehicle, placed him on the ground face down, and handcuffed the subject.

Los Angeles Fire Department personnel responded and treated all 4 subjects at the scene, then transported them to a hospital. Subject 2 was pronounced dead by Emergency Room personnel.

Los Angeles Board of Police Commissioners' Findings

The BOPC reviews each Categorical Use of Force incident based upon the totality of the circumstances, namely all of the facts, evidence, statements and all other pertinent material relating to the particular incident. In every case, the BOPC makes specific findings in three areas: Tactics of the involved officer(s); Drawing/Exhibiting/Holstering of a weapon by any involved officer(s); and the Use of Force by any involved officer(s). All incidents are evaluated to identify areas where involved officers can benefit from a tactical debriefing to improve their response to future tactical situations. This is an effort to ensure that all officers benefit from the critical analysis that is applied to each incident as it is reviewed by various levels within the Department and by the BOPC. Based on the BOPC's review of the instant case, the BOPC made the following findings.

A. Tactics

The BOPC unanimously found Lieutenant A, Detectives A, B, C, D, E, F, G, H, J, K, L, M, N, O, P and Q's, and Officers A and B's tactics to warrant a tactical debrief.

B. Drawing/Exhibiting

The BOPC unanimously found Detective A, B, D, G, and J's drawing and exhibiting of a firearm to be in policy.

C. Use of Force

The BOPC unanimously found Detective A's use of lethal force, as to rounds 1 and 2, to be in policy. The BOPC found, by a vote of 3-2, Detective A's use of lethal force, as to rounds 3 through 6, to be out of policy.

The BOPC found, by a vote of 3-2, Detective B's use of lethal force to be out of policy.

Basis for Findings

A. Tactics

In its analysis of this incident, the BOPC noted the following tactical considerations:

1. Communications

In this instance, the proper notification to the required reporting agency was not made. In order to maintain officer safety during plainclothes surveillance details and to prevent the potential of conflicts with other plainclothes operations, such a notification should be made.

2. Securing weapons inside of police vehicles

The investigation of this incident revealed that it was common practice for the involved detectives to carry various weapon systems unsecured in the rear seat area of their vehicles. Current Department policy states that, generally, the shotgun is stored in the gun rack; however, the detectives were driving unmarked vehicles that did not have gun racks. Additionally, due to the fluid nature of their assignment and the unpredictability of the subjects they encounter, the detectives need to have immediate access to various weapons systems and may not have an opportunity to stop and recover their weapons from a secure location such as the vehicle's trunk.

3. Driving while maintaining control of loaded shotgun

In this instance, Detectives A and B loaded their shotguns, placed them in the front seat with the barrels pointed downward toward the floorboard. As the driver of the

vehicle, Detective A had a limited ability to maintain control of the shotgun as he performed various tasks associated with driving and maneuvering the vehicle. It would be tactically sound for Detective A to concentrate on driving and utilize a weapon system that he had secured to his person upon initial contact with the subjects. If necessary, once the vehicle had stopped, Detective B could provide cover as Detective A retrieved his shotgun.

4. Vehicle Stop

Based on the nature of the crimes being investigated, it was determined that it was appropriate to stop the subjects by containing their vehicle with plain police vehicles, as opposed to using uniformed officers to effect the stop.

5. Simultaneous verbal commands to the subjects

After the vehicle stop was initiated, multiple detectives gave commands to the subjects. The detectives are trained to utilize the concept of contact and cover in which one detective gives the verbal commands while the others provide cover. By doing so, the chance of causing confusion in the mind of the subjects and the other personnel at scene is minimized.

The BOPC found Lieutenant A, Detectives A, B, C, D, E, H, J, K, L, M, N, O, P and Q's, and Officers A and B's tactics to warrant a tactical debrief.

Drawing/Exhibiting

In this situation, Detectives A, B, G, H and J exited their vehicles and drew their respective weapons in preparation to confront armed attempt robbery suspects. It was reasonable for Detectives A, B, G, H, and J to believe that the situation could escalate to the level where the use of lethal force might become necessary.

Also, Detective D was directed to act as cover officer of the extraction team assembled to remove an injured subject from the vehicle. It was reasonable for Detective D to have a tactical weapon in a position of readiness, to provide for the safety of the other members of the team, and for himself.

The BOPC found Detectives, A, B, D, G, and H's drawing and exhibiting of a firearm to be in policy.

Use of Force

Detective A

Detective A observed Subject 4 raise a revolver in his right hand, and point the weapon in the direction of other detectives. Detective A believed that Subject 4 presented a direct threat and immediate threat to the other officers. Based on his observations, the BOPC found the first two rounds discharged by Detective A to be in policy. However,

the BOPC noted that the preponderance of the available evidence did not support Detective A's account that he fired the following four rounds at Subject 4 as he continued to brandish a handgun. As such, Subject 4 did not present a threat warranting the use of lethal force at that time. Therefore, the BOPC found the discharge of the subsequent four rounds by Detective A to be out of policy.

Detective B

The BOPC noted that the preponderance of the available evidence did not support Detective B's account that he fired in response to his observation of Subject 4 turning toward other detectives while holding a handgun in his right hand. As such, Subject 4 did not present a threat warranting the use of lethal force at that time. The BOPC found the three rounds discharged by Detective B to be out of policy.

**ABRIDGED SUMMARY OF CATEGORICAL USE OF FORCE INCIDENT AND
FINDINGS BY THE LOS ANGELES BOARD OF POLICE COMMISSIONERS**

OFFICER-INVOLVED SHOOTING 063-09

Division	Date	Duty-On () Off (X)	Uniform-Yes () No (X)
Northeast	09/12/2009		

Officer(s) Involved in Use of Force	Length of Service
Officer A	2 years

Reason for Police Contact

An off-duty officer became involved in a confrontation which resulted in an officer-involved shooting.

Subject

Subject 1: Male, unknown age.

Subject 2: Male, unknown age.

Subject 3: Male, unknown age.

Board of Police Commissioners' Review

This is a brief summary designed only to enumerate salient points regarding this Categorical Use of Force incident and does not reflect the entirety of the extensive investigation by the Los Angeles Police Department (Department) or the deliberations by the Board of Police Commissioners (BOPC). In evaluating this matter, the BOPC considered the following: the complete Force Investigation Division investigation (including all of the transcribed statements of witnesses, pertinent suspect criminal history, and addenda items); the relevant Training Evaluation and Management System materials of the involved officers; the Use of Force Review Board recommendations; the report and recommendations of the Chief of Police; and the report and recommendations of the Inspector General. The Department Command Staff presented the matter to the BOPC and made itself available for any inquiries by the BOPC.

Because state law prohibits divulging the identity of police officers in public reports, for ease of reference, the masculine pronouns (he, his, and him) will be used in this report to refer to male or female employees.

The following incident was adjudicated by the BOPC on May 24, 2011.

Incident Summary

Officer A and Witnesses A and B departed a bar. As the three of them exited the bar and started walking toward Officer A's vehicle, which was parked in a nearby parking

lot, a vehicle pulled up next to them. Subject 1 (passenger) had his window down and shouted out a derogatory comment toward Witness A.

According to Witness B, the vehicle was stopped as she, Officer A, and Witness A approached. Witness B also indicated that the vehicle was occupied by three males – a driver, passenger and a third passenger seated in back. Witness B believed it was the front passenger (Subject 1) who made the comment out the window.

Officer A did not remember Subject 1's comment, but did remember that it was disrespectful to him and Witness A. According to Witness B, Officer A was angry because he was protective over Witness A.

The driver (Subject 2) made a U-turn in the middle of the street and pulled into the parking lot where Officer A's vehicle was parked. Officer A got scared because he was walking back to his car, and had a feeling that the situation might escalate. Officer A believed the subjects in the vehicle were going to come back and confront him. Upon arriving at his vehicle, Officer A obtained his off-duty weapon.

Officer A started his vehicle and rolled down the windows. As Officer A was pulling out of the driveway of the parking lot, he observed the subjects' vehicle park in the lot. As he was stopped in the driveway, Officer A looked in his rearview mirror and saw Subject 1 approaching his vehicle from behind on foot.

As Officer A pulled the vehicle toward the parking lot exit, something hit him in the face. Officer A was certain it was Subject 1 who had hit him, because A recognized the black muscle shirt that Subject 1 had worn as well as his tattoo. Officer A indicated that Subject 1 was standing outside his vehicle between the driver's side and the back door partition.

Witness B indicated that although she did not directly see Subject 1 strike Officer A, she saw Officer A's head snap backwards.

Officer A was unsure whether Subject 1 struck him multiple times, because the first strike was strong and caught him off guard. Officer A was also disoriented by the first strike, which resulted in a temporary hearing and sight loss. Officer A stated that he sustained ringing in his ears, a bruise the size of a dime on his top lip, redness on his lower lip, and a headache. Witness B indicated that Officer A was struck one time.

Officer A then retrieved his weapon and fired at Subject 1. Officer A indicated that he was shooting at the threat posed by Subject 1.

Officer A shot two to three times, at a downward motion, directly outside his vehicle window, in the direction of the threat.

According to Witness B, after Officer A was hit in the face, he reached under his thigh and then she heard two pops. Witness B also indicated that Officer A's arm appeared

to be as fully extended and was slightly out the window. According to Witness B, at the time the shots were fired, the vehicle was stationary, but Subject 1 was no longer standing next to Officer A's vehicle. After Subject 1 struck Officer A, he disappeared from Witness B's line of vision. Witness B knew the popping noises were gunshots, but she did not see any muzzle flashes.

Following the shooting, Officer A left the scene immediately because he wanted to get Witness A and Witness B away from the area and to protect them. After he fled the scene, Officer A noticed that he had blood on his hands, from his own face. He also believed there was a possibility that the subjects would follow him to his residence, because he looked in his rearview mirror and saw bright lights and believed he was being followed.

Witness B indicated that Officer A drove aimlessly, getting on and off the freeway twice, such that it took them an hour to return to Officer A's residence. Officer A turned the vehicle's interior light on and saw blood on his hands, which was coming from his nose. According to Witness B, Witness A asked Officer A what he was going to do, but he did not respond. Also according to Witness B, while in the vehicle, Witness A found what appeared to be a link of a watch in her lap. She assumed that it was related to Officer A shooting someone and that it had flown into the car. Officer A reassured Witness A he had not hit anybody. Witness A told Witness B, that based on the cut on Officer A's face, the piece of metal looked like it could have come from a watch.

Later that night, Officer A used a pay phone outside a convenience store near his residence to call Officer B, who in turn called Officers C and D and arranged for them to meet Officer A at the convenience store.

Sergeant A received a phone call from Officer C indicating that Officer A was having a problem. Officer A then told Sergeant A that someone had attacked him and that he had fired his off-duty weapon.

Los Angeles Board of Police Commissioners' Findings

The BOPC reviews each Categorical Use of Force incident based upon the totality of the circumstances, namely all of the facts, evidence, statements and all other pertinent material relating to the particular incident. In every case, the BOPC makes specific findings in three areas: Tactics of the involved officer(s); Drawing/Exhibiting/Holstering of a weapon by any involved officer(s); and the Use of Force by any involved officer(s). All incidents are evaluated to identify areas where involved officers can benefit from a tactical debriefing to improve their response to future tactical situations. This is an effort to ensure that all officers benefit from the critical analysis that is applied to each incident as it is reviewed by various levels within the Department and by the BOPC. Based on the BOPC's review of the instant case, the BOPC unanimously made the following findings.

A. Tactics

The BOPC found Officer A's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

The BOPC found Officer A's drawing and exhibiting to be Out of Policy.

C. Lethal Use of Force

The BOPC found Officer A's lethal use of force to be Out of Policy.

Basis for Findings

A. Tactics

Due to the nature of the incident and the lack of a nexus to law enforcement activity or tactics, the evaluation of tactics was not necessary. However, current Department policy states that any officer involved in a Categorical Use of Force incident shall be directed to attend a Tactical Debrief.

B. Drawing/Exhibiting

Officer A was seated inside his vehicle when Subject 1 punched him in the face. In response, Officer A drew his off-duty pistol from a holster that was secreted between the front seat cushion and center console of his vehicle.

In determining the appropriateness of the decision to draw his pistol, consideration must be given to the Subject 1's proximity to Officer A when the act of drawing occurred. After Subject 1 punched Officer A, Witness B recalled that Subject 1 backed away from the car. Officer A also relayed that he pointed his pistol out the window behind him, at the direction of the threat. Both statements indicate a circumstance wherein at the time Officer A made the decision to draw his pistol, Subject 1 had already moved from the driver's side window and was no longer in a position to be a viable threat. Therefore, Officer A lacked sufficient cause to draw his pistol.

The BOPC found Officer A's Drawing/Exhibiting to be Out of Policy.

C. Use of Force

In this case, consideration must be given to the extent Officer A was "*disoriented*" and the level of threat posed by Subject 1 when the decision to use lethal force was made. Although Officer A indicates that he was "*disoriented*" as a result of being punched by Subject 1, the distance and time that he drove after leaving the scene and his lack of

effort to obtain immediate medical attention minimizes the amount of weight that can be given to this as a consideration to justify his use of lethal force.

As for the threat posed by Subject 1, Witness B stated that after Officer A was punched, Subject 1 backed away from the car. Witness B elaborated that Subject 1 hit Officer A once and then seemed to disappear from her line of sight. She described a circumstance wherein Subject 1 had moved away from the vehicle, and Officer A pointed his pistol back at an angle over his shoulder before he fired. Furthermore, Witness B's depiction of events was corroborated by Officer A, as he described that he pointed his pistol out the window and "behind" his position before he shot approximately two to three times in the direction of the threat, in a downward motion. In giving equal weight to these statements, the balance of evidence established that Subject 1 had moved from the driver's side window prior to the decision to use lethal force, which conflicts with the assertion that Subject 1 continued to pose an imminent threat. Absent a perceived or actual presence of an additional threat (e.g., a firearm) and the fact that Officer A was capable of driving away to avoid further conflict, Officer A lacked sufficient justification for the use of lethal force.

In addition, Officer A's statement that he fired in the direction of the threat indicates that he neither acquired a sight picture nor had Subject 1 in view when he fired. Officers are held to a standard where they are responsible for every shot fired. By pointing his pistol over his shoulder and firing in the direction he perceived Subject 1 to be in, Officer A jeopardized the safety of innocent bystanders. To that end, the balance of the evidence refutes the existence of circumstances that would support a reasonable belief that Officer A and/or the occupants of his vehicle were at risk of serious bodily injury or death at the time the decision was made to use lethal force.

In conclusion, the BOPC found Officer A's application of Lethal Force to be Out of Policy.

**ABRIDGED SUMMARY OF CATEGORICAL USE OF FORCE INCIDENT AND
FINDINGS BY THE LOS ANGELES BOARD OF POLICE COMMISSIONERS**

OFFICER-INVOLVED ANIMAL SHOOTING – 021-10

<u>Division</u>	<u>Date</u>	<u>Duty-On()</u>	<u>Off(X)</u>	<u>Uniform-Yes()</u>	<u>No(X)</u>
Outside City	3/10/10				

<u>Officer(s) Involved in Use of Force</u>	<u>Length of Service</u>
Detective A	12 years, 11 months

Reason for Police Contact

Officer's pet dog confronted by opossum.

<u>Animal</u>	<u>Deceased (X)</u>	<u>Wounded ()</u>	<u>Non-Hit ()</u>
Opossum			

Board of Police Commissioners' Review

This is a brief summary designed only to enumerate salient points regarding this Categorical Use of Force incident and does not reflect the entirety of the extensive investigation by the Los Angeles Police Department (Department) or the deliberations by the Board of Police Commissioners (BOPC). In evaluating this matter, the BOPC considered the following: the complete Force Investigation Division investigation (including all of the transcribed statements of witnesses, pertinent suspect criminal history, and addenda items); the relevant Training Evaluation and Management System materials of the involved officers; the Use of Force Review Board recommendations; the report and recommendations of the BOPC of Police; and the report and recommendations of the Inspector General. The Los Angeles Police Department Command Staff presented the matter to the Commission and made itself available for any inquiries by the Commission. Because state law prohibits divulging the identity of police officers in public reports, for ease of reference, the masculine pronouns (he, his, and him) will be used in this report to refer to male or female employees.

The following incident was adjudicated by the BOPC on May 25, 2010.

Incident Summary

Detective A was off-duty at his home when he heard a noise from his backyard. Detective A ran to the backyard and saw his pet dog being confronted by an opossum, which had its lips retracted and was baring its teeth and hissing. According to Detective A, "[a]lthough there is a common belief that opossums feign death as a defensive tactic it should be noted that they have fifty sharp teeth, sharp claws and have been known to aggressively attack."

Note: The opossum was subsequently determined to weigh 3.67 pounds. Detective A's dog weighed 45 pounds.

According to Detective A, the opossum repeatedly lunged at his dog. Detective A made several attempts to verbally call the dog back to him, but every time the dog moved right or left the opossum would cut off her avenue of escape. Detective A then tried to shout at the opossum and shoo it away, but it continued to lunge at the dog. Detective A noted there were no brooms, rakes, shovels, or poles of any kind readily accessible in his backyard. There were several chairs; however, Detective A eliminated using them to protect the dog and himself because, according to Detective A, "[t]hrowing a chair would not have been accurate, it is likely that I could have missed the opossum and struck [the dog]; or if I had struck the opossum, further enraged it ultimately causing more injury to [the dog] or myself."

Detective A then positioned himself approximately 10 feet away from the opossum. The dog then let out a scream, and the opossum turned in Detective A's direction, with its lips retracted, teeth bared, and hissing. Fearing that the opossum might begin attacking him, Detective A drew his pistol. Based on the opossum's actions, Detective A believed he and his dog were in immediate danger, and that "shooting the opossum was necessary to prevent great harm." According to Detective A, "[n]ot only would an attack have resulted in serious lacerations to both [the dog] and I, but a possibility of death or serious illness due to the fact that opossum carry parasites and have been known to carry rabies." Detective A then fired one round, striking the opossum. According to Detective A, the opossum flinched, but continued to move in his direction with its lips retracted, teeth bared, and hissing. Still in fear for the dog and his own safety, Detective A fired a second round, striking the opossum in the upper body and rendering it incapacitated.

Note: Detective A stated that he had a line of fire that did not place his dog in any harm. In addition, by firing downward toward the opossum, any round that missed the opossum would strike the ground.

Detective A holstered his weapon and placed his dog inside the house. Detective A then contacted the local police department and an LAPD supervisor to report what had occurred.

Los Angeles Board of Police Commissioners' Findings

The BOPC reviews each Categorical Use of Force incident based upon the totality of the circumstances, namely all of the facts, evidence, statements and all other pertinent material relating to the particular incident. In every case, the BOPC makes specific findings in three areas: Tactics of the involved officer(s); Drawing/Exhibiting/Holstering of a weapon by any involved officer(s); and the Use of Force by any involved officer(s). All incidents are evaluated to identify areas where involved officers can benefit from a tactical debriefing to improve their response to future tactical situations. This is an effort to ensure that all officers benefit from the critical analysis that is applied to each incident as it is reviewed by various levels within the Department and by the BOPC. Based on

the BOPC's review of the instant case, the BOPC made the following findings by a vote of four-to-one.

A. Tactics – Does Not Apply.

B. Drawing/Exhibition – Does Not Apply.

C. Use of Force – The BOPC found Detective A's use of force to be out of policy.

Basis for Findings

Use of Force

In adjudicating this incident, the BOPC considered that:

Detective A encountered a 3.67 pound opossum confronting his 45 pound dog. Detective A described the opossum as acting aggressively toward his dog and himself. In determining its findings in this case, the BOPC reviewed Detective A's actions and evaluated them based on established Department policy on lethal force and training provided to officers specifically related to encounters with wild animals.

In this case, although Detective A stated that his act of shooting the opossum was necessary to prevent great harm, given the distances involved and the alternatives available to Detective A in the form of items located in his yard, the BOPC determined it was not objectively reasonable for Detective A to perceive that the opossum presented an immediate threat of death or serious bodily injury. Therefore, Officer A's use of a firearm to stop the threat perceived to be posed by the small animal was determined to be out of policy. In this instance, Detective A should have continued to monitor the opossum's actions and utilized available items such as patio chairs or spray from a nearby water hose as a barrier between the opossum, himself and his dog.

**ABRIDGED SUMMARY OF CATEGORICAL USE OF FORCE INCIDENT AND
FINDINGS BY THE LOS ANGELES BOARD OF POLICE COMMISSIONERS**

OFFICER-INVOLVED SHOOTING – 025-10

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
Olympic	03/20/2010		

Officer(s) Involved in Use of Force	Length of Service
Officer A	5 years, 11 months
Officer B	6 years, 11 months

Reason for Police Contact

Officers A and B heard a noise which led them to turn their vehicle around and approach Subject 1, who was walking northbound on the sidewalk. The officers approached Subject 1, attempted to make contact with him an OIS occurred.

Subject	Deceased (X)	Wounded ()	Non-Hit ()
Subject 1: Male, 27 years of age.			

Board of Police Commissioners' Review

This is a brief summary designed only to enumerate salient points regarding this Categorical Use of Force incident and does not reflect the entirety of the extensive investigation by the Los Angeles Police Department (Department) or the deliberations by the Board of Police Commissioners (BOPC). In evaluating this matter, the BOPC considered the following: the complete Force Investigation Division investigation (including all of the transcribed statements of witnesses, pertinent suspect criminal history, and addenda items); the relevant Training Evaluation and Management System materials of the involved officers; the Use of Force Review Board recommendations; the report and recommendations of the Chief of Police; and the report and recommendations of the Inspector General. The Department Command Staff presented the matter to the Commission and made itself available for any inquiries by the BOPC.

Because state law prohibits divulging the identity of police officers in public reports and for ease of reference, masculine pronouns (he, his, and him) will be used in this report to refer to male or female employees.

The following incident was adjudicated by the BOPC on 02/15/11 and 3/1/11.

Incident Summary

Events prior to the officer-involved shooting

Uniformed Police Officers A and B were patrolling and “trying to find gang members that [they knew] . . . committing crime or something like that.”¹ The officers were driving a marked black and white hybrid police vehicle. Officer B was the driver and Officer A the passenger.

According to Officer B, he and Officer A were driving southbound, toward Officer B’s assigned gang area. Officer B pulled into the left-hand turn lane at an intersection and initiated a left, eastbound turn.

Note: According to Officer B, there was “very minimal traffic” and “[n]ot too many peds.” According to Witness A, when asked about pedestrian traffic on the sidewalk, he responded, “It wasn’t really crowded.”

Note: According to Officer A, the officers were turning left because they were going to get a cup of coffee.

According to Officer B, he started to make his left-hand turn, and as he approached the crosswalk in the intersection, he heard “some kind of loud noise, a pop, some kind of impact noise.” Officer B indicated the noise was coming from a direction north of the officers and further described it as “a loud pop, bang.” According to Officer A, he also “heard a loud bang” as Officer B negotiated the left turn.

Note: When asked if the noise sounded like gunshots, Officer B said, “gunshots do sound different depending on caliber [...] It wasn’t like – from what I recall, it wasn’t like a ping [...] Just kind of like a loud, like a bang or something hitting. It’s harder – it’s really kind of hard to describe.”

Officer A stated, “You know, it was just a loud bang that caught my attention [...] It sounded [...] like a deep boom, you know. Not – not so much like a gunshot [...] I don’t believe it was a gunshot.”

Note: No witnesses indicated that they heard the noise described by Officers A and B.

According to Officer B, after he heard the noise he looked in his rearview mirror, looked to the left where his view was impeded by a wall, and looked at Officer A, telling Officer A, “let’s check it out.” Officer B further stated that he wanted to initiate “a little further investigation,” given that there were commonly shootings and vandalism in that area.

¹ Both Officers A and B were interviewed shortly after this incident occurred. Both officers were subsequently re-interviewed to clarify their prior testimony.

Note: According to Officer A, after he heard the bang sound, he said something like, “let’s go see what’s going on,” to Officer B.

Note: According to Officer A, he did not broadcast the officers’ location via the radio because “[i]t just happened so quick [he] . . . didn’t have a chance to.” According to Officer B, he did not broadcast the officers’ location because he was driving.

According to Officer B, he reversed the black and white vehicle, started driving northbound on the street and saw an individual, Subject 1, walking northbound on the sidewalk on the east side of the street “[d]ressed black on black with his – walking on the sidewalk with his hands kind of tucked in, in his waistband or hoodie or – just in the front where I couldn’t see them.” Officer B believed “that [the] noise came from that individual or that general area.” According to Officer B, after making the U-turn, he drove slowly northbound, “trying to kind of like catch up with [Subject 1], but at the same time [...] we’re just kind of watching him.”

Note: According to Officer B, Subject 1 was “the only individual there,” and even though Officer B knew there were other people in line at [a food] stand [north of the intersection, in the middle of the block], there were no other people walking with Subject 1 on the sidewalk or on the street at that time. Officer B stated that although he didn’t see Subject 1 doing anything specific, he knew the noise “came from the north.”

Note: According to Officer B, Subject 1 was approximately 15 to 20 yards north of the corner of where the officers made their U-turn when Officer B first saw him. Also according to Officer B, the “initial point [he] started concentrating on” Subject 1 was when he was “towards the trunk of the [brown] car” that was parked just south of a driveway in the middle of the block on the east sidewalk.

A brown car was parked on the eastbound curb of the street, facing northbound, and 3.5 feet from the south opening of the driveway, which led to a food stand. Several witnesses had just placed orders and were waiting for their food prior to the incident.

Note: According to Officer B, when he saw Subject 1, the windows of the black and white vehicle were already down.

Note: According to Officer B, he believed Subject 1 was “wearing a hoodie” and that the hood was up when the officers saw him walking northbound on the street.

Meanwhile, Officer A also saw a male with dark clothing (Subject 1) walking northbound on the east sidewalk, after the officers negotiated their U-turn.

Note: According to Officer A, he noticed that the door to a newsstand located just north of the corner of where the officers made their U-turn was open when the officers passed by. Officer A indicated that the noise the officers had heard could have been a “slammed [...] door of a newspaper stand or mailbox.”

Note: According to Officer A, Subject 1 was approximately 50 to 75 feet from the corner when Officer A first saw him.

According to Officer A, Subject 1 continued walking northbound as the officers approached from behind at approximately five to ten miles per hour.

Note: According to Officer A, Subject 1 “was the only one on the sidewalk,” and “the only one [he] saw at that time[.]” According to Officer A, the officers’ intent was “just [...] to talk to him to see what’s going on” and take a closer look. According to Officer A, he did not intend to exit the police vehicle; rather, “[i]t was more, like, what’s going on here” because there were parked cars on the street. Officer A further indicated that “it wasn’t like, oh, let’s get that guy right there.”

According to Officer A, as Subject 1 was walking northbound and the officers were still behind him, Officer A “[a]ll of a sudden [...] said something, like, ‘hey,’ you know. ‘Hey,’ you know, something like that.” Officer A also indicated that he asked Subject 1, “hey, are you all right?”

Note: When asked what his intention was in asking, “hey, are you all right,” Officer A indicated, “it was just to pass by” and that he, Officer A, “say[s] things to everybody all the time when [he’s] cruising down the street.”

Note: According to Officer B, he knew that Officer A “said something to [Subject 1]” but he did not “recall exactly.”

According to Officer A, Subject 1 looked back at him, made eye contact, then looked straight ahead again and continued walking. According to Officer A, Subject 1 looked at him with a “hard stare.” Officer A said that Subject 1 looked at him over his left shoulder “maybe for a second or two,” “hard,” and then when Officer A looked at Subject 1, Subject 1 “looked forward again.” According to Officer B, Subject 1 made a “sharp turn” toward the officers and “just kind of looked at [them] with his stare.”

Note: Officer A described Subject 1 as wearing a dark blue sweater and dark pants.

Note: According to Officer A, it was dark outside and there wasn’t much light. However, there was a street lamp illuminating Subject 1 such that

Officer A could see him clearly. According to Officer B, he did not use the vehicle's emergency lights as the officers approached Subject 1.

Note: Video evidence indicates that the officers' spotlight was illuminated during this incident, although both officers did not recall using the spotlight. When Officer A was asked whether he used any means to illuminate Subject 1, Officer A responded, "No, I don't believe so."

According to Officer B, Subject 1 was "in a daze" and was not looking at the officers. Officer B indicated that he could not see Subject 1's hands, but he knew "his hands were [...] close to his waistband like belly button area" and "underneath [his sweater] maybe [...] like within close proximity to his, like, you know, stomach area [...] like, lower waistband." Officer B further indicated that he and Officer A were "going to stop and talk to him just investigate, just based on his demeanor, the way his hands are clenched in his waistband."

Note: According to Officer B, he did not have an opportunity to tell Officer A, "let's go ahead and stop this guy."

Note: According to Officer B, his view of Subject 1 was partially obstructed, given that there were parked cars along the street. Also according to Officer B, as the officers got closer to Subject 1, he could not positively discern Subject 1's race.

According to Officer A, Subject 1 extended his arm and "lifted up his [...] sweater" with his left hand and "with [his] right hand, [he's] going into [his] waistband. And he – he began to moving it (sic) up and down[.]" Officer A indicated that he told his partner, "He's going for his waistband. Waistband. Waistband."

Note: According to Officer A, he repeated the word "waistband" to his partner because Subject 1 "was going for his waistband." Officer A further indicated that when Subject 1 began "manipulating" his waistband, the officers were between 5-15 feet behind Subject 1.

According to Officer B, as the officers pulled parallel to Subject 1, who was approximately 15 feet east of the officers and just south of the driveway in the middle of the sidewalk, Officer B heard Officer A say, "[h]e's got something, he's got something." According to Officer B, he also heard Officer A say, "Put your hands up. Put your hands up[.]" or something about hands, but Subject 1 "wasn't responding." Also according to Officer B, when Subject 1 continued to walk, Officer B started "[s]hout[ing] stuff too [...] Like, 'let me see your hands.'"

Note: According to Officer A, he never gave Subject 1 any commands and did not tell Subject 1 to put his hands up.

Note: Several witnesses recalled hearing the officers saying something to Subject 1, but they could not relay specifically what was said. According to Witness A, “maybe I heard the officer shouting something [...] I’m not sure. It wasn’t very clear [...] I don’t think it was ‘Freeze.’ It wasn’t freeze. It was something else [...] It sounded like a command.”

Officer A’s account of the officer-involved shooting

According to Officer A, as the officers pulled up parallel to Subject 1, Officer A unholstered his weapon with his right hand because he thought Subject 1 had a gun, based on his perception that he “saw something” in Subject 1’s waistband. Officer A indicated that he “pointed [his gun] out the window,” as the police vehicle drove past the brown car that was parked just south of the driveway.

Note: According to Officer A, he held his weapon out the window with his right hand only and faced straight toward Subject 1 with his upper body.

Also according to Officer A, Subject 1 “faced [Officer A] and [...] put out his hand,” “yelled something,” and “point[ed] something at [Officer A].” Officer A could not discern what Subject 1 yelled, but it was “just more like a (sic) ‘ah,’ like – ‘ah.’”

Officer A indicated that Subject 1’s body turned westbound toward the officers “[a]nd it was just so quick [...] I thought he was going to shoot me[.]” According to Officer A, “as soon as I told [Subject 1], hey, how you doing, hey, what’s up, [...] as soon as he turned and looked and he gave me that mad dog [look], he immediately went for his waistband, and he started tugging at it like this while still moving fast past the brown car.”

Note: Officer A described what he perceived as the tugging motion by indicating that Subject 1 was “mov[ing] both his hands up and down near [his] waistband.”

Officer A also indicated that he was “really scared” and “thought [he] was going to die right there because [Subject 1] had [...] the jump on [him].” According to Officer A, he saw Subject 1 pull something out of his waistband with his right arm and “point his arm” toward the officers. Officer A indicated that when Subject 1 turned towards him, he “saw an object in his hand.” According to Officer A, he believed that Subject 1 “had a gun on his waistband.” Officer A believed he yelled, “Gun. Gun. Gun,” to his partner.

Note: Officer B indicated that he heard Officer A’s warning, “Gun. Gun. Gun.”

When in his initial interview he was asked to further describe the object he believed he saw in Subject 1’s possession, Officer A indicated, “I saw something black, sir. Something dark [...] in his waistband[.]” Officer A could not further describe the object.

Note: In Officer A's initial interview, he said he saw an object being pulled out of Subject 1's waistband by Subject 1. In a subsequent interview, after he had been questioned as to whether someone had told him that Subject 1 did not have a gun, Officer A admitted that he had, in fact, been told this by his legal representative that Subject 1 did not have a gun. During this second interview, Officer A indicated that he believed Subject 1 had been in possession of a gun. As a result of this statement during his second interview, investigators began to ask Officer A to "describe the gun" he believed Subject 1 possessed at the time of the OIS.

In his follow-up interview, Officer A said Subject 1 took what Officer A believed to be a gun out of his waistband, raised his right arm and turned "to where [Officer A] was positioned sitting in the police vehicle, [...] punching out forward towards [him]." Officer A added that the object, which he believed to be a gun, "looked dark in [Subject 1's] hand. It looked black. To me [Subject 1] had a gun in his hand," but Officer A could not otherwise describe its characteristics, other than saying he saw what he believed to be a gun on the right side of Subject 1's waistband as soon as Subject 1 turned toward him. Officer A believed it was a gun because he "saw it" and that the "butt of the gun [...] looked pretty big," sticking out from Subject 1's waistband.

Also according to Officer A, "[i]t was a gun to [him]." According to Officer A, he "saw [Subject 1] going for [what A believed to be the gun] a hundred percent [...]. He has it – he's pivoted, goes for it, pulls it out, comes up."

Note: In further explaining why he believed Subject 1 had a gun, Officer A indicated, "It was the action of him going for his waistband [...] when he grabbed onto the gun [...] spinning – turning his body [...] as well as actions, him pulling it out, pointing it towards us, punching up with the gun [...] and coming at us [...]. I saw it."

According to Officer A, he fired one round from a distance of five to seven feet at Subject 1's center body mass and then ducked down to take cover behind the passenger side of the police vehicle's ballistic paneled door because he "thought [Subject 1] was going to shoot [him]." According to Officer A, he fired in defense of his life.

Note: According to Officer A, his left shoulder was down further in the police vehicle than his right when he ducked down inside. Officer A ducked "for cover as soon as [he could] get down [...] under the ballistic panel of the door cause [he did not] want to get shot."

Note: According to Officer A, he did not fire additional shots because he "thought [he] was going to get shot [...] and] didn't want to die so [he]

ducked down. [He] lost sight of [Subject 1] [...] So [he] couldn't continue shooting."

Officer A believed that the police vehicle was stopped at the time he fired his shot. However, when Officer A began to exit the police vehicle because he did not want to be a "sitting duck in a car," and reached over to open the door with his left hand, he noticed that the vehicle was still moving. Officer A tried to "put it in park. And [he] got out of the vehicle. The vehicle was already turning [...] into the driveway." Officer A believed that Officer B was already out of the car when A attempted to put the "rolling" car in "park."

Officer B's account of the officer-involved shooting

According to Officer B, Subject 1 was in "some kind of faze with his hands tucked underneath [...] he just made like a quick, like sharp turn towards [the officers]." Officer B agreed when the movement was described by an interviewing detective as "[k]ind of like a furtive [...] movement."

Note: In a subsequent interview, Officer B referred to Subject 1's movement as a "deferred movement with his waistband."

Note: Officer B did not make any reference to his partner saying, "gun, gun, gun" in his first interview. Officer B did make reference during his first interview to hearing Officer A saying, "he's got something."

Officer B indicated in his follow-up interview, however, that he was not sure if he "changed something because [he was told before his first interview that Subject 1] didn't have a gun." In his follow-up interview, Officer B stated that when he saw Subject 1 make the sudden movement toward the officers, he heard Officer A yell "gun, gun, gun."

Officer B also indicated that Subject 1 "just kind of looked at [the officers] with his stare," with his hands still tucked in his waistband. According to Officer B, Subject 1's hands and shoulders were making a quick "up and down movement [...] in his waistband stomach area."

When asked by an interviewing detective if he had the impression that Subject 1 "was maybe like on drugs," Officer B responded that Subject 1 "was in his own world" and "could have been" under the influence of narcotics, given that his eyes "got big." Officer B indicated that the look on Subject 1's face, combined with the rapid turn toward the officers, scared him.

According to Officer B, his intentions up to that point had been to "stop and talk to [Subject 1]. I'm not gonna keep driving and turn . . . [and] have our back towards him." Officer B believed based on the direction Subject 1 was walking, the officers were "gonna deploy from the back [...]" But at that point, you know, Subject 1 just stops [...]

[T]hat's when he makes that, that [turn toward the officers]." According to Officer B, it was not his intent to stop parallel to Subject 1.

Officer B slammed on the brakes and thought he put the vehicle in park and "knew that [he] had to get out of the car because [his] partner essentially was going to be a sitting trap in the car. Officer B indicated he formed this belief that Officer A would be trapped "based on the way Subject 1 was coming at [the officers]."

Meanwhile, Officer B was "scared" as he unholstered his weapon and exited the police vehicle due to observing Subject 1's "demeanor, his actions, [and] based on prior training that [...] individuals [...] conceal and hide their [...] weapons in their waistband."

After exiting the police vehicle, Officer B attempted to take cover behind the rear of the vehicle, when he heard "a pop, a gunshot."

Note: According to Officer B, he heard the first gunshot as he was out of the vehicle and "towards the back where the door closes[.]"

Note: According to Officer B, he was intending to take cover behind the rear wheel well so that he could be in a position to draw his gun and order Subject 1 back.

According to Officer B, he "was thinking [the gunshot] was coming from [Subject 1]," although he "did not physically see a gun in [Subject 1's] hands." Also according to Officer B, he did not see Subject 1's hands when he heard the first gunshot.

Note: Officer B indicated that he never saw Subject 1 with a weapon.

Officer B indicated he believed that Subject 1 had just fired at him and his partner based on "what [Officer A] stated, the way [Subject 1] had just acted, the gunshot – you know, when he fired – when I first saw him make that movement [...] that quick, sharp turn towards us."

Note: Officer B stated that after he heard the gunshot, he was "worried for [his] partner" because he did not see Officer A out of the car, but rather, saw the police vehicle rolling and believed Officer A may have still been inside the vehicle.

Note: According to Officer B, the police vehicle kept moving towards the driveway. Officer B also stated later in his interview that the vehicle "moved and it kind of backed up. I don't know if [...] the car just kind of rolled back or stopped on its own[.]" Officer B believed the car moved 15 feet and "slid back down the driveway."

According to Officer B, Subject 1 was located at the south portion of the driveway after Officer B heard the first shot, and Subject 1 was continuing to "com[e] quick. [Subject 1]

was fast. It was rapid [...] It kind of seemed like he was maybe like tucking [his hands into his waistband] to pull something out [or] draw a weapon.”

According to Officer B, he believed Subject 1 “was coming towards [the officers, ...] was pulling out a gun based on his approach, not going with the program” and was “still a threat [...] coming toward me, with his hands [t]o his waistband, stomach, belly button area.” Furthermore, Officer B believed Subject 1’s continued actions of moving his shoulders up and down and bending his arms at the elbows indicated that Subject 1 was “coming back out with his hands to engage [Officer B]” or “manipulating a gun.”

Note: According to Officer B, approximately 5-10 seconds passed between the time he heard Officer A issue Subject 1 commands – “put your hands up,” and the time Subject 1 “came toward” Officer B.

Officer B indicated he did not see Subject 1’s hands as Officer B spun around and faced Subject 1 after exiting the vehicle. According to Officer B, Subject 1’s arms were in close proximity to his waistband, as was the case when the officers first saw Subject 1.

Note: Officer B indicated that the reason he could not see Subject 1’s hands was because they were “close to his body” and “it wasn’t like his full body was bladed towards us.”

According to Officer B, he believed that as Subject 1 was “coming towards [him...] he’s still a threat[.]” Also according to Officer B, Subject 1 was “still at that point rushing towards [Officer A]” as though he was “attacking” the officers.

According to Officer B, he “c[a]me around [...] hear[d] the pop. And at that point [Officer B ...] pointed [his] gun and [...] shot one round” from a distance of approximately 20 feet.

Note: Based on analysis of available video evidence, the maximum time between Officer A’s shot and Officer B’s shot was 5.7 seconds.

Note: According to Officer B, he shot Subject 1 when there was a distance of approximately eight to ten feet between him and Subject 1. Officer B indicated he did not have any cover when he fired his weapon.

Note: According to Officer A, meanwhile, he was ducked down in the police vehicle, and heard a second shot, so he stayed down because he “didn’t want to get shot.”

According to Officer B, he fired based on Officer A’s warning (“he’s got something,” followed by “gun, gun,”), hearing the gunshot, and because Subject 1’s “body motions [were] consistent with [Subject 1] coming out to draw [...] from] his waistband area[.]” Also according to Officer B, he fired “believing that [Subject 1] was trying to hurt him and

Officer A and [that Subject 1] was trying to kill [the officers]. He was attacking [the officers,]” so Officer B fired in “immediate defense of life.”

Officer B further stated that he fired “based on everything [...] leading up to [the shooting]. That demeanor, that look, the way he charges, not listening to, you know, [the officers’] orders[.]”

According to Officer B, after he fired, he saw Subject 1 fall to the ground.

Note: According to Officer B, he did not know if his round hit Subject 1 and kept his weapon drawn out over Subject 1 because Subject 1’s “hands were still underneath him where [the officers] still couldn’t see them.”

Officer B broadcast a “shots fired” radio call. Forty seconds later, Officer B further broadcast, “I got one victim down. There’s a [...] subject down,” and requested a Rescue Ambulance (RA).

Note: According to Officer A, as he tried to put the vehicle in park, he heard his partner on the radio say, “Officer needs help. Shots fired. Shots fired[.]”

Note: Analysis of ballistic evidence revealed that the round fired by Officer A struck Subject 1. The round fired by Officer B struck a nearby wall.

Witness accounts

There were various witness accounts of the events prior to and immediately following the incident.

According to Witness E, who was at the food stand at the time of the incident, he saw Subject 1 “throw[] something” with his right arm in a downward direction “to the police car.” Also according to Witness E, he saw Subject 1 “make this motion” and then heard a boom. Witness E further indicated that “at that moment of the throwing action, [he] heard the gunshot [...] And [...] Subject 1] just fell forward right away[.]” Witness E further stated, “Right about the time that the [...] action motion [with Subject 1’s right arm] was about to finish was when [he] heard that one bang.”²

According to Witness F, who was standing across the street outside the restaurant across the street, when the shooting occurred, he saw Subject 1 “raising his hand and that’s when the officer just fired.” Witness F also believed there were two officers in his

² Witness E did not recall whether Subject 1 had any object in his hands or not. Subject 1 can be seen on video making a rapid throwing motion with his right arm.

view at the time he observed the shooting, and that both officers had their guns extended out in Subject 1's direction. Witness F further indicated that he did not see anything in Subject 1's hands. Witness F described Subject 1's movements as "jumpy like scared [...] I guess his hands were in a pocket or something, and, I guess, he was trying to pull his hands out [...] and once he got shot, that's when his hands like finally got out but he didn't have anything." Witness F further indicated that Subject 1's hands "looked like they got stuck in his jacket[.]"

Also according to Witness F, when Subject 1 "turn[ed] and like move[d] suddenly, that's when he got shot." Witness F further stated, "after the first shot [Subject 1] was just like mumbling and hit the ground because he was in pain ... like falling already" and "shout[ing]." Witness F elaborated that he heard a "growl" or moaning" sound and that Subject 1 was still standing after he heard the first gunshot.

Witness F indicated he knew Subject 1 had been hit after the first shot "because [Subject 1] kind of like went back a little" and "because it seemed like something hit him and after that, [...] another shot slipped." Witness F indicated that after he heard another shot, "the guy just fell." However, Witness F also indicated that after the first shot, Witness F himself "just stood there shocked. And then [he] was pretty scared, and [he] kind of looked down," and he "didn't actually see who shot the second one[.]"

According to Witness B, who was waiting at the food stand at the time of the shooting, "one police officer comes out [of the vehicle], [...] and he's shooting [...]. [T]he officer that was doing the shooting was on the driver's side of the vehicle." Also according to Witness B, "next thing you know, I – I see the guy. He's down. And from that point on we're running." Witness B "didn't see exactly what [Subject 1] did."

According to Witness C, Witness B's girlfriend, who was also at the food stand at the time of the shooting, she also "heard a shot. And [she] turned around and looked, and [saw] a man laying on the ground in front of [her] car." Witness C further indicated that "all of a sudden [she and Witness B] hear the shot. When [they] hear the initial shot and turn around, this man is already laying in front of [her] car." Witness C further indicated that she saw the officer "shoot the gun as [she saw] him over the person laying on the ground." Also according to Witness C, the officer whom she saw shoot was "completely bald."

Note: Both officers have short dark hair. Officer A's hair was shorter than Officer B's and was closely shaven to his head at the time of the incident.

According to Witness A, who was also waiting at the food stand, he heard a popping noise and when he turned around, he saw someone on the ground. Upon seeing the man on the ground, Witness A indicated that he ran toward the back area of the food stand and "heard a second gunshot after that." Also according to Witness A, he "was assuming [...] there was a gun in [the officer's] hand," but he "didn't actually see a gun."

According to Witness G, who was parking his vehicle when he heard the shots, he saw Subject 1 on the ground when he exited his vehicle, but Subject 1 “wasn’t moving.”

According to Witness H, the chef at the food stand grill, when he heard the gunshots, he “ducked, and [he] didn’t see anything.”

Video evidence

A video recording portrays a silhouette of Subject 1. Subject 1 is seen stepping back, making a rapid throwing motion with his right arm in the direction of the roadway, and then stepping forward and out of the frame. The video did not capture the officers’ actions during the shooting incident.

Events following officer-involved shooting

In the aftermath of the shooting, according to Officer A, he exited the vehicle and thought he may have to “engage again,” so he walked a couple feet away from the car, eastbound.

Note: Officer B relayed he did not know if Officer A shot until the officers were asking each other after the incident whether they were okay.

According to Officer A, he saw Subject 1 on the ground to his right with “his hands in the front of his [...] stomach.” Officer A indicated that Subject 1’s head was pointing south, “kind of like off the curb” and facedown.

Note: According to Witness F, he observed Subject 1 on the ground with one hand “just hanging and the other one just like crunched up into his [...] stomach.”

Note: According to Officer B, he did not definitively discern Subject 1’s race until Subject 1 was on the ground.

Note: Officer A recalled people running by, so he told them to stay right where they were.

According to Officer A, he reholstered his weapon because he did not “see [Subject 1] as a threat anymore.” Subject 1 “wasn’t moving,” and Officer A “already thought he was expired.”

Uniformed Officers C and D were near the scene of the incident when they heard Officer B’s “shots fired” radio broadcast and “immediately responded to the location.”

Officers C and D made contact with Officers A and B, who “pointed over to a [subject] that was on the floor laying down face down.” According to Officer C, Subject 1 lay

approximately five to ten feet in front of the other officers' vehicle and was face-down, facing southbound.

Note: According to Officer C, Subject 1 appeared to be “shot and unconscious and [...] not breathing.”

According to Officer D, he requested additional units and “wanted to take over the scene [...] [b]ecause [...] he knew Officers A and B] had gotten involved in a shooting obviously because there was a victim down.”

Officer C recalled that Officer D “pull[ed] [Subject 1’s] right hand underneath his body,” and Officer C cuffed both of Subject 1’s hands.

Note: According to Officer B, he reholstered when Officers C and D “showed up to take [...] charge of the body[.]”

Note: Officer C did not notice any evidence on the ground aside from an expended cartridge casing.

Note: According to Officer D, he and Officer C tried to contain as many witnesses as possible in the area.

Shortly after Officers C and D arrived, Sergeant A also arrived at the scene. According to Sergeant A, upon his arrival, he “observed [Subject 1] down on the ground and [...] verified that [Officers A and B] were okay and immediately separated them [...] and obtained a public safety statement[.]”

According to Sergeant A, when obtaining Officer B’s Public Safety Statement, Officer B said he “did not believe that [Subject 1] fired” and did not make any statements that he thought Subject 1 was armed.

Additional Department personnel arrived at the scene to assist with monitoring Officers A and B and transferring them back to the station.

Los Angeles Fire Department personnel responded to the scene. Firefighter/Paramedic A declared Subject 1 to be dead.

A Los Angeles County Coroner’s investigator later recovered the following items from Subject 1’s body at the scene, pursuant to a personal effects inventory search:

- Black cellular telephone case (phone was inside the case) clipped to Subject 1’s right front waistband;
- Black gloves recovered from left rear pants pocket;
- Bottle of hand sanitizer recovered from left rear pants pocket;
- Black wallet recovered from right rear pants pocket;

- House keys and small pocket knife on metal ring attached to a cloth lanyard with one end of the lanyard stuffed into right front pants pocket, and the keys and knife hanging down Subject 1's right leg;
- Black scarf recovered from Subject 1's hooded sweatshirt pocket;
- Black knit cap/headband recovered from under Subject 1's head.

During the subsequent investigation of this incident, a Department of Coroner official was questioned by investigators with respect to the issue of whether Subject 1 could have walked or remained standing after Officer A's first gunshot struck him. The report indicates, "[O]ther than the gunshot being rapidly fatal, he could not give specific information regarding Subject 1 having the ability to walk or if he could have remained standing after being struck."

Los Angeles Board of Police Commissioners' Findings

The BOPC reviews each Categorical Use of Force incident based upon the totality of the circumstances, namely all of the facts, evidence, statements and all other pertinent material relating to the particular incident. In every case, the BOPC makes specific findings in three areas: Tactics of the involved officer(s); Drawing/Exhibiting/Holstering of a weapon by any involved officer(s); and the Use of Force by any involved officer(s). All incidents are evaluated to identify areas where involved officers can benefit from a tactical debriefing to improve their response to future tactical situations. This is an effort to ensure that all officers benefit from the critical analysis that is applied to each incident as it is reviewed by various levels within the Department and by the BOPC. Based on the BOPC's review of the instant case, the BOPC unanimously made the following findings.

A. Tactics

The BOPC found Officers A and B's tactics to warrant administrative disapproval.

B. Drawing/Exhibiting/Holstering

The BOPC found Officer A's drawing and exhibiting to be out of policy. The BOPC found Officer B's drawing and exhibiting to be in policy.

C. Use of Force

The BOPC found Officers A and B's lethal use of force to be out of policy.

Basis for Findings

A. Tactics

In adjudicating this incident, the BOPC considered that:

1. Once the decision was made to proceed northbound and prior to initiating contact with Subject 1, Officer A should have notified Communications Division (CD) of the officers' status and location; which would have also notified officers in the area of their location. Although there may be circumstances that prevent officers from advising CD of their status and location, in this situation, the officers had adequate time to notify CD prior to making contact with Subject 1.

Officers A and B's actions substantially and unjustifiably deviated from approved Department tactical training.

2. Officers A and B observed Subject 1 manipulate his waistband in a manner they considered consistent with being in possession of a firearm before they made the decision to position themselves parallel and in close proximity to Subject 1. In some cases, such a parallel position may be unavoidable; however, in situations where officers initiate contact, they should do so consistent with a tactical plan and always maintain a tactical advantage. In this case, it would have been tactically advantageous for Officer B to have stopped the police vehicle behind Subject 1 and exited, thereby utilizing the police vehicle as cover while they attempted to contact Subject 1.

The practice of closing distance and initiating contact with a possibly armed subject while seated in the police vehicle is highly discouraged and is counter to effective tactics and best practices. This decision substantially and unjustifiably deviated from approved Department tactical training and placed the officers at a significant tactical disadvantage.

3. Due to Subject 1's actions, Officer B believed he and his partner were in danger and needed to get out of the vehicle. Officer B attempted to place the police vehicle in park before he exited, but failed to do so.

The stressful dynamics of the encounter impacted Officer B's reactions and impacted his ability to manipulate the gear shifter. Consequently, because of the situation the officers were in, Officer B's actions did not substantially deviate from approved Department tactical training due to his need to react to the threat.

4. Officer A, who was seated in the passenger seat of the police vehicle, fired one round at Subject 1 from a distance of approximately five feet. Believing he would be shot by Subject 1, Officer A elected to duck and seek cover behind the passenger door, thereby losing sight of Subject 1. Officers are trained to address a threat until the threat ceases and to seek cover while maintaining a visual on the subject(s).

Officer A's actions diminished his ability to defend himself and his partner, thereby substantially and unjustifiably deviating from approved Department tactical training.

The BOPC found Officer's A and B's tactics to warrant administrative disapproval.

B. Drawing/Exhibiting

The BOPC evaluated the circumstances relevant to Officers A and B's drawing and exhibiting and determined that the preponderance of the available evidence did not support Officer A's account that he drew his weapon based on his belief that the situation could escalate to the point where deadly force could become necessary.

The BOPC determined that Officer B had a reasonable belief that the situation had escalated to the level where the use of lethal force may become necessary.

The BOPC found Officers A's drawing and exhibiting to be out of policy. The BOPC found Officer B's drawing and exhibiting to be in policy.

C. Lethal Use of Force

Officer A – one round, from approximately five feet.

In this instance, the BOPC determined that the preponderance of the available evidence did not support Officer A's account that his perception of Subject 1's actions constituted a lethal threat. Specifically, the BOPC determined that the preponderance of the evidence supported the conclusion that Subject 1 was not armed, and that Subject 1 did not engage in any conduct that posed a threat warranting the use of lethal force. Based on the circumstances in this case, the BOPC did not believe that Officer A's lethal use of force was reasonable.

Officer B – one round, from approximately 20 feet.

In this instance, the BOPC determined that the preponderance of the available evidence did not support Officer B's account that his perception of Subject 1's actions constituted a lethal threat. Specifically, the BOPC determined that the preponderance of the evidence supported the conclusion that Subject 1 was not armed, and that Subject 1 did not engage in any conduct that posed a threat warranting the use of lethal force. Based on the circumstances in this case, the BOPC did not believe that Officer B's lethal use of force was reasonable.

**ABRIDGED SUMMARY OF CATEGORICAL USE OF FORCE INCIDENT AND
FINDINGS BY THE LOS ANGELES BOARD OF POLICE COMMISSIONERS**

OFFICER-INVOLVED SHOOTING – 051-10

<u>Division</u>	<u>Date</u>	<u>Duty-On(X) Off()</u>	<u>Uniform-Yes() No(X)</u>
Foothill	06/24/10		

<u>Involved Officer(s)</u>	<u>Length of Service</u>
Detective A	20 years 4 months
Detective B	20 years 7 months
Detective C	17 years 1 month
Detective D	28 years 5 months

Reason for Police Contact

The Subject was suspected of being involved in a series of armed robberies. The detectives had stopped the Subject, in an effort to take him into custody, when an officer-involved shooting occurred.

<u>Subject(s)</u>	<u>Deceased ()</u>	<u>Wounded (X)</u>	<u>Non-Hit ()</u>
Male, 24 years of age.			

Board of Police Commissioners' Review

This is a brief summary designed only to enumerate salient points regarding this Categorical Use of Force incident and does not reflect the entirety of the extensive investigation by the Los Angeles Police Department (Department) or the deliberations by the Board of Police Commissioners (BOPC). In evaluating this matter, the BOPC considered the following: the complete Force Investigation Division investigation (including all of the transcribed statements of witnesses, pertinent suspect criminal history, and addenda items); the relevant Training Evaluation and Management System materials of the involved officers; the Use of Force Review Board recommendations; the report and recommendations of the Chief of Police; and the report and recommendations of the Inspector General. The Los Angeles Police Department Command Staff presented the matter to the BOPC and made itself available for any inquiries by the BOPC.

Because state law prohibits divulging the identity of police officers in public reports, for ease of reference, the masculine pronouns (he, his, and him) will be used in this report to refer to male or female employees.

The following incident was adjudicated by the BOPC on June 7, 2011.

Incident Summary

Detectives obtained information regarding a series of robberies that had occurred at various check cashing stores. During one of the robberies, a witness obtained the license plate details of the Subject's vehicle.

Detectives responded to the address of the Subject and initiated a surveillance of his vehicle. Detectives A and B were in one vehicle, and Detectives C and D were in a separate vehicle. Detectives followed the Subject and observed him as he walked into a check cashing store. Once inside the store, the Subject committed a robbery, during which he threatened victims with a handgun.

The detectives then followed the Subject as he fled the location and ultimately forced the Subject to stop his vehicle.

According to Detective A, he exited the passenger side of his vehicle armed with his shotgun. Detective A had a clear view into the Subject's vehicle and recalled that the windows were rolled up, the side windows were clear and the rear windshield was tinted. As he exited his vehicle, Detective A stated, "Police, hands up." He could also hear other detectives yelling the same commands. According to Detective A, when they first stopped the Subject, his hands were on the steering wheel; however, he could not see the Subject's right arm. As Detective A exited his vehicle, he observed the Subject with a handgun. Detective A further explained that the Subject's right arm came across the front of his body, and he could see that the Subject was holding a blue steel semiautomatic handgun in his right hand. It appeared to him that the Subject was pointing the gun in the direction of Detective B, and that the Subject was making eye contact with Detective B. Detective A, in fear for Detective B's life, fired his shotgun two to three times as the Subject was pointing the gun at Detective B. Detective A then observed the Subject turn to his right and saw gunfire striking Detective C's windshield. Although Detective A could no longer see the Subject's gun, he now believed that the Subject was shooting at Detective C, and he fired an additional two to three rounds at the Subject, until his shotgun was empty.

Detective B was about to exit his vehicle when he observed the Subject, still in his (the Subject's) vehicle, turn toward him with what appeared to be a handgun. Detective B then heard the sounds of gunshots, which he assumed were from either Detective A or C. Detective B described the Subject's weapon as a blue steel handgun and was unsure if it was a revolver or a semiautomatic. Detective B stated that he fired his shotgun as the Subject's upper torso was turning to the left, toward Detective B, and the Subject's gun was pointed toward the street.

Detective C observed glass breaking out of the rear windshield of the Subject's vehicle and believed that the Subject was shooting at the detectives. Detective C was in fear for his life and, without exiting his vehicle, fired four rounds through his own windshield in the direction of Subject 1. Detective C indicated that due to the tint on the rear windshield of the Subject's vehicle, he could not see the exact movements of the

Subject, but believed that the Subject had fired a shot through his (Subject 1's) rear window. After firing the shots through his windshield, Detective C exited his vehicle in an effort to see inside of the Subject's vehicle.

Detective D, heard shots being fired and observed the Subject lean to his right, with what Detective D believed to be a gun in the Subject's hand. Detective D thought the Subject was attempting to acquire either himself or another detective as a target and fired one round from his shotgun at Subject 1.

Following the shooting, Detectives A, B, and D placed their shotguns in their respective vehicles and drew their pistols. Detective A gave commands to the Subject, ordering him numerous times to "show his hands" and to "open the driver's side door." The Subject finally opened the door, and pulled himself partially out of the vehicle. The Subject was then taken into custody and handcuffed.

Meanwhile, Witness A went outside and, prior to hearing gunshots, heard the detectives yelling commands at the Subject. Witness A indicated that the detectives were giving the Subject commands and that the Subject was not obeying them. Witness A observed the Subject making sudden movements within the vehicle prior to shots being fired. At one point, it appeared that the Subject had his palms together and was reaching to his right. It also appeared to Witness A that the Subject reached down under the passenger side of the front seat. According to Witness A, when the Subject made a quick motion to his right, he observed Detective A fire four shots. Witness A did not see the Subject in possession of a gun. According to Witness A, after the shots were fired, the Subject continued to ignore the detectives' commands and was moving around within the vehicle. The Subject finally came out of the vehicle as though he was falling, with his legs remaining within the vehicle.

A Rescue Ambulance arrived at the scene and treated the Subject for gunshot wounds to his left shoulder, neck and head. The Subject was subsequently transported to a hospital.

Los Angeles Board of Police Commissioners' Findings

The BOPC reviews each Categorical Use of Force incident based upon the totality of the circumstances, namely all of the facts, evidence, statements and all other pertinent material relating to the particular incident. In every case, the BOPC makes specific findings in three areas: Tactics of the involved officer(s); Drawing/Exhibiting/Holstering of a weapon by any involved officer(s); and the Use of Force by any involved officer(s). All incidents are evaluated to identify areas where involved officers can benefit from a tactical debriefing to improve their response to future tactical situations. This is an effort to ensure that all officers benefit from the critical analysis that is applied to each incident as it is reviewed by various levels within the Department and by the BOPC. Based on the BOPC's review of the instant case, the BOPC unanimously made the following findings.

A. Tactics

The BOPC found Detectives A, B, C and D's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting/Holstering

The BOPC found Detectives A, B, C and D's drawing and exhibiting to be in policy.

C. Use of Force

The BOPC found rounds 1-3 discharged by Detective A to be in policy, and rounds 4-6 to be out of policy.

The BOPC found Detective B, C and D's uses of force to be in policy.

Basis for Findings

A. Tactics

The BOPC found that the tactics used during this incident did not unjustifiably and substantially deviate from approved Department training, and noted that a Tactical Debrief is the appropriate mechanism for the significantly involved personnel to evaluate the events and actions that took place during this incident and assess the identified tactical considerations to better handle a similar incident in the future.

B. Drawing/Exhibiting/Holstering

The BOPC noted that Detectives A, B and C exited their respective vehicles and exhibited their shotguns in preparation of confronting a possible deadly threat. Additionally, Detective C believed the Subject was firing his weapon in his direction and drew his service pistol from his tactical vest to confront the perceived deadly threat.

The BOPC found Detectives A, B, C and D's Drawing/Exhibiting to be in policy.

C. Use of Force

The BOPC found the first three rounds discharged by Detective A to be in policy. The BOPC found the discharge of the subsequent three rounds by Detective A to be out of policy. The BOPC noted that the preponderance of the available evidence did not support an objectively reasonable belief that the Subject presented an imminent threat of death or serious bodily injury at the time those rounds were discharged. Specifically, Detective A did not observe the Subject in possession of a gun at the time the rounds were fired, and impacts to the windshield of Detective C's vehicle, which were caused by Detective C's gunfire, did not constitute the basis for an objectively reasonable belief that the Subject was firing at Detective C.

The BOPC noted that Detective B immediately exited his vehicle with his Department issued shotgun and took a position behind his open door. Detective B observed the Subject turn his head to the left in his direction. The Subject then continued to turn his body to the left and raised his right arm while holding what Detective B perceived to be a “blue steel handgun”.

Detective B’s decision to use lethal force was objectively reasonable, in that an officer with similar training and experience would have reasonably perceived the Subject’s actions to constitute an imminent threat of death or serious bodily injury.

The BOPC noted that Detective C heard a gunshot and perceived that he was being fired upon by the Subject. This belief was a result of his observation that the rear window of the Subject’s vehicle was “broken.”

Detective C’s decision to use lethal force was “*objectively reasonable*,” in that an officer with similar training and experience would have reasonably perceived that the situation posed an imminent threat of death or serious bodily injury.

The BOPC noted that Detective D heard gunshots. Looking into the passenger compartment of the Subject’s vehicle, Detective D saw the Subject lean to this right and observed what he believed to be the silhouette of a gun in his hand.

Detective D’s decision to use lethal force was objectively reasonable, in that an officer with similar training and experience would have reasonably perceived the Subject’s actions to constitute an imminent threat of death or serious bodily injury.

The BOPC found rounds 1-3 discharged by Detective A to be in policy, and rounds 4-6 to be out of policy.

The BOPC found Detective B, C and D’s uses of force to be in policy.

**ABRIDGED SUMMARY OF CATEGORICAL USE OF FORCE INCIDENT AND
FINDINGS BY THE LOS ANGELES BOARD OF POLICE COMMISSIONERS**

OFFICER-INVOLVED SHOOTING – 069-10

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
Olympic	08/28/2010		

Officer(s) Involved in Use of Force	Length of Service
Officer A	10 years, 6 months

Reason for Police Contact

Officers responded to a radio call of an Assault with a Deadly Weapon in progress.

Subject	Deceased (X)	Wounded ()	Non-Hit ()
Subject: Male, 20 years of age.			

Board of Police Commissioners' Review

This is a brief summary designed only to enumerate salient points regarding this Categorical Use of Force incident and does not reflect the entirety of the extensive investigation by the Los Angeles Police Department (Department) or the deliberations by the Board of Police Commissioners (BOPC). In evaluating this matter, the BOPC considered the following: the complete Force Investigation Division investigation (including all of the transcribed statements of witnesses, pertinent suspect criminal history, and addenda items); the relevant Training Evaluation and Management System materials of the involved officers; the Use of Force Review Board recommendations; the report and recommendations of the Chief of Police; and the report and recommendations of the Inspector General. The Department Command Staff presented the matter to the BOPC and made itself available for any inquiries by the BOPC.

Because state law prohibits divulging the identity of police officers in public reports, the masculine pronouns (he, his, and him) will be used in this report in situations where the referent could in actuality be either male or female.

The following incident was adjudicated by the BOPC on August 2, 2011, and August 25, 2011.

Incident Summary

Events preceding the officer-involved shooting (OIS)

Two vehicles stopped next to each other at a red light in a busy intersection. A black vehicle was in the left-hand turn lane at the intersection, and a red Sports Utility Vehicle (SUV) was stopped in the number one lane, directly parallel to the black vehicle.

While the vehicles were waiting for the light to change, the occupants of the black vehicle, Witness A and the Subject, exited their vehicle and approached the SUV, which was occupied by Witnesses B and C.

Witness A approached the hood of the SUV and put his arms across it, thereby preventing the vehicle from moving forward when the light changed, while the Subject approached the SUV's driver's side window, where Witness B was seated, and started banging on the window with his fist.

Other witnesses indicated that both Witness A and the Subject directed various statements at the occupants of the SUV.

Witness B attempted to tell Witness A to give him an opportunity to park, and he would get out of the car. Witness C called the police.

Witness D indicated that the Subject was initially banging on the driver's window with his hand, yelling threatening obscenities, and demanding to be let into the vehicle.

Witness E, who was parked nearby, indicated that Witness A threatened the occupants of the black vehicle.

After a few minutes of beating on the window with his fist, the Subject walked to the trunk of his vehicle, pulled out an object and began striking the driver's side window of the SUV with the object.

Witness F observed the Subject holding a black object, which Witness F believed could be a knife or a gun, and called 911.

According to Witness G, he observed the Subject go to the back of his car and grab "a little black object." Witness G then observed a piece of the object fall to the ground, and the Subject holding an eight-inch-long piece of a small souvenir bat, which Subject 1 repeated struck against the SUV's window.

Witness H believed the object the Subject was holding looked like a small bat.

Witness I believed the object was a tire iron.

Witness D observed the Subject angrily hitting the window with a stick and demanding that the occupants get out of the vehicle.

Witness J heard the Subject banging on the window with two metal objects.

Other witnesses variously described the object as a three-foot-long stick, black, "something like a leather case," and a flashlight.

Meanwhile, Officers A and B heard a radio broadcast regarding an Assault with a Deadly Weapon (ADW) in connection with this incident. The officers were approximately one-half mile from the location of the incident when they heard the broadcast, and they responded to the call.

Officer A indicated that as his partner drove toward the location, the call was updated with additional details at least twice, which included an update relaying that one of the subjects was armed with a knife and a gun. Officer A also reported that, initially, the call comments had stated that one of the subjects was armed with a bat.

As the officers approached the location, they noticed people at the nearby gas station, as well as the people on the corner across the street, all looking in one direction. Officer A verbalized to his partner that everyone was looking toward the intersection and noted that Officer B was aware of this fact as well. Officer A saw an SUV and a black vehicle in the intersection and "a guy standing at the driver's side window on the outside of the car, and he was beating on the window with his left hand." The officers stopped south of the intersection. They didn't want to enter the intersection because they believed the Subject was possibly armed with a gun. Rather than announcing their presence, entering the intersection and losing the advantage of possibly having surprise, the officers decided to stop short of the intersection. The officers did not use the siren on their police vehicle as they pulled up to the intersection because they did not want to alert the Subject to their presence.

Events leading up to and including the OIS

Officer A's account

As Officer A advanced into the intersection, he observed the Subject banging on the window. Officer A also saw Witness B with his hands up in the air. Officer A indicated that the Subject's right hand came down and that he saw a handgun in the Subject's right hand, which he described as being a black barrel, approximately eight inches long and circular.

Officer A believed that the man in the vehicle was in jeopardy of being injured or shot by the Subject, who still had his back to Officer A. Officer A drew his weapon when he was positioned halfway between the police vehicle and the Subject's position, as he moved forward and was approximately 20 feet away from the Subject, because he believed the situation could escalate to the point where he or Witness B could be shot or injured.

Officer A continued moving to his left to give himself a better view of the Subject. Officer A moved further to the left and saw the Subject's arm move forward again, such that he believed that a gun was pointed at Witness B. Officer A believed a crime was being committed, based on the radio call and the Subject's actions. Officer A fired one or two rounds, and believed he struck the Subject.

After the discharge of the first shot(s), according to Officer A, the Subject stopped, turned around, and faced Officer A. Officer A stepped to his left and fired a second volley of one or two rounds. Officer A did not recall seeing the position of what he believed to be the gun when he fired the second volley of shot(s), but believed the gun was pointed at him.

The Subject turned and then ran between the two vehicles. Officer A yelled, "Stop, stop, stop," as the Subject ran. Officer A believed the Subject was taking cover. Officer A could not see the Subject because the Subject had bent down. Officer A also believed the Subject was going to "pop" out of the other side and start running or take a position to engage him. Officer A was concerned that the Subject had cover and that he did not.

As Officer A arrived at the area behind the black vehicle, the first thing he saw was the Subject turning towards him. Officer A believed that something "cued" the Subject, and the Subject turned again. The Subject still had the gun in his hand and Officer A fired a fourth round at the Subject.

Officer B's account

Officer B exited the police vehicle and followed Officer A. Officer B observed Officer A come to a stop and unholster his weapon. Officer B also saw Witness A in front of the SUV banging on the hood, pointing at the driver with his finger, and yelling something while the Subject was between the two vehicles.

Officer B saw Officer A come to a stop and fire one round at the Subject. Officer B saw the Subject almost simultaneously turn around slightly clockwise, and saw the Subject's right hand holding an object which Officer B believed to be a pistol or the grips of a pistol.

Officer B next observed the Subject walking between the two vehicles. He also observed Witness A look at the officers and run behind the SUV. Officer B indicated he dropped to his knees and saw Witness A's legs as Witness A ran. Officer B issued commands in English and possibly Spanish to Witness A, telling him, "Let me see your hands."

As Officer B observed Witness A come to a stop behind the rear tire of the SUV, he heard an additional gunshot from Officer A's direction. Also according to Officer B, he

saw the Subject, who was at the rear of the black vehicle, walk toward Officer A. Officer B believed Officer A was being shot at.

Witness statements regarding the OIS

Witness D

Witness D observed the Subject standing in the street, banging a stick on the window of the SUV, and attempting to break the window. Witness D indicated that the Subject did not see the officers approaching, and within a second of Witness D seeing Officer A the first shot was fired.

Witness G

Witness G observed the police vehicle stop before it entered the intersection and then observed Officer A crouched down with his gun drawn and walking straight towards the dark car.

Witness G indicated that after banging on the SUV window with a bat, the Subject turned counterclockwise and was holding the bat at chest height. Witness G heard two shots and then another two shots.

Witness E

Witness E saw three officers standing in the street and heard shots being fired. She also heard one of the officers say, "Stop," and, "Don't move," but the Subject did not stop, and ran behind a car. Witness E also indicated she saw the Subject with his right arm up to the side of his head as he was running. When the Subject was behind the vehicle, Witness E saw that he had an object in his hand.

Witness I

Witness I believed he heard an officer yell, "stop," and observed the Subject run from the officer. Witness I also noted that the Subject ran to the rear of the vehicles and turned around with a tire iron. Witness I then heard five shots being fired.

Witness K

According to Witness K, Officer A started shooting when the Subject's back was toward the officer. The Subject started running to the back of the vehicle, and the object he was holding fell to the ground. Witness K indicated the object appeared to be a battery or a small flashlight.

Witness L

Witness L observed a man standing by a vehicle tapping on the window with an object, heard a “pop,” and then observed an officer say, “Stop. Put your hands up,” and, “Get down,” followed by another pop. Witness L subsequently observed that the Subject “got down on the ground.” Further, according to Witness L, when the Subject fell, a black object that was in his hand hit the ground.

Events Subsequent to the OIS

After Officer A’s final round struck the Subject, the Subject fell to the ground. Officer A heard an item, which he believed was a gun, land on the ground next to the Subject. When Officer A looked down, he realized the item that had fallen to the ground was a small, black bat or club that had broken in half.

Los Angeles Board of Police Commissioners’ Findings

The BOPC reviews each Categorical Use of Force incident based upon the totality of the circumstances, namely all of the facts, evidence, statements and all other pertinent material relating to the particular incident. In every case, the BOPC makes specific findings in three areas: Tactics of the involved officer(s); Drawing/Exhibiting/Holstering of a weapon by any involved officer(s); and the Use of Force by any involved officer(s). All incidents are evaluated to identify areas where involved officers can benefit from a tactical debriefing to improve their response to future tactical situations. This is an effort to ensure that all officers benefit from the critical analysis that is applied to each incident as it is reviewed by various levels within the Department and by the BOPC. Based on the BOPC’s review of the instant case, the BOPC unanimously made the following findings.

A. Tactics

The BOPC found Officers A and B’s tactics to warrant a tactical debrief.

B. Drawing/Exhibiting

The BOPC found Officers A and B’s drawing and exhibition of a firearm to be in policy.

C. Lethal Use of Force

The BOPC found Officer A’s use of lethal force to be out of policy.

Basis for Findings

A. Tactics

In its analysis of this incident, the BOPC noted the following tactical considerations:

Officers A and B requested that the radio call be assigned to them and drove toward the intersection. As the northbound lanes of traffic were congested, Officer B drove northbound in a southbound lane with the vehicle emergency lights activated and the siren off. According to the officers, the siren was not utilized as they did not want to alert the subjects of their approach.

The nature of the radio call allowed the officers to respond in emergency fashion. The officers' actions in this regard did not substantially deviate from approved Department policy.

In addition, while the officers discussed tactical issues during their response to the incident, and it was noted that Officer A directed Officer B to stop the police vehicle, Officer A did not provide Officer B with his observations or tactical plan. While circumstances during critical incidents can change quickly, it is important for partner officers to have a tactical plan and communicate that plan to their partner whenever possible and in a timely manner. The BOPC found that this issue did not represent an unjustified and substantial deviation from approved Department training.

Finally, after Officer A exited the police vehicle and proceeded through the intersection, his view of the Subject was obscured. In response, Officer A redeployed in a direction which was void of any cover. Although officers are trained to utilize cover or concealment when possible, circumstances may arise which prompt an officer to move away from a position of cover. Officer A articulated that he moved from cover to get a better observation and because there were so many citizens in the vicinity.

It was reasonable for Officer A to move from cover in order to gain a better understanding of the incident and to address the tactical situation. The potential exigency of this incident (*i.e.*, the potential that a victim was being immediately threatened by an armed subject) justified Officer A's decision to close the distance between himself and the subject, and to do so without the benefit of cover. Given this exigent circumstance, the BOPC believed it was permissible for Officer A to position himself in relative proximity to the Subject in order to provide assistance to the apparent victims inside the SUV.

In conclusion, the BOPC found that Officer A's decision to leave cover did not substantially deviate from approved Department tactical training; however, the BOPC also noted that there are potential risks associated with closing the distance to a potentially armed subject, and potential tactical consequences of doing so without cover.

B. Drawing/Exhibiting

The BOPC noted that Officers A and B responded to a radio call in which the last updated broadcast by CD stated a subject was armed with a knife and a gun. Officer A recalled he saw a handgun in the Subject's right hand, and he believed the citizen in the vehicle was in jeopardy of being injured or shot by the Subject. The BOPC determined that an officer with similar training and experience would reasonably believe that an individual armed with a handgun and pointing it at another individual represented a substantial risk that the situation may escalate to the point where deadly force may be justified.

Officer B recalled he saw his partner fire his weapon and then almost simultaneously observed the Subject turn around slightly, his right hand holding what Officer B believed to be the grips of a pistol. Having seen his partner fire his service pistol and observing the Subject to be armed with a handgun, an officer with similar training and experience would reasonably believe that the situation had already risen to one in which deadly force may be justified.

The BOPC found the Drawing/Exhibiting of Officers A and B to be in policy.

C. Lethal Use of Force

In this case, Officer A responded to an incident wherein he had been informed over the radio that an ADW was taking place and that callers had reported that the Subject possessed a weapon, variously described as a bat, a gun and a knife.

The evidence in this case shows that the Subject was holding a small wooden bat when encountered by Officer A. The bat, which, according to a witness had broken prior to the arrival of the officers, had an overall length of 18-inches, and was subsequently recovered broken into two pieces of roughly equal length. The bat was dark blue in color. Officer A observed this item in the Subject's hand and mistook it for a handgun. Officer A's initial formulation of the belief that the bat was a gun formed the basis for his decision to discharge each of the four rounds fired in relatively close succession during this incident. Officer A observed the item during daylight hours, and from a distance of approximately 20 feet, at the time he commenced firing at the Subject. The BOPC found that the appearance of the bat was such that it could not have been reasonably mistaken for a gun under the conditions and circumstances.

In considering the reasonableness of Officer A's belief that the item the Subject was holding was a gun, the BOPC also noted that it was broadcast to Officer A during his response to this incident that the Subject was armed with a "gun and a knife." The BOPC found that, while this information should have been critical to informing the officers' tactical approach to the incident, it could not supplant the need for Officer A to make his own independent observations once he arrived at the scene. Indeed, as an officer of similar training and experience to Officer A would be aware, it is often the case that incidents initially reported by callers to involve the use/presence of weapons do not,

in fact, ultimately involve weapons. As such, given an officer's responsibility to evaluate a situation in light of the actual facts and circumstances of a particular case, the BOPC did not find that the information broadcast to Officer A alone rendered objectively reasonable his belief that the bat was a gun.

In addition, instructive to the BOPC's decision was that the large majority of witness accounts of the incident were inconsistent with Officer A's observation that he saw a gun in the Subject's hand. In fact, the vast majority of witnesses observed the object in the Subject's hand to be something *other than* a gun.

Based on the above, the BOPC found that Officer A's belief that the Subject's actions presented an imminent threat of death or serious bodily injury was not objectively reasonable. Accordingly, the BOPC found Officer A's use of lethal force to be out of policy.